No. 2490

United States Circuit Court of Appeals

Ninth Circuit

Appeal from the District Court of the United States for the District of Oregon

OREGON & CALIFORNIA RAILROAD COMPANY, A CORPORATION, *et al.*,
Defendants and Appellants

JOHN L. SNYDER, *et al.*,
Cross-Complainants and Appellants

WILLIAM F. SLAUGHTER, *et al.*,
Interveners and Appellants

vs.

THE UNITED STATES OF AMERICA
Appellee

TRANSCRIPT OF RECORD

VOLUME XVI

PAGES 3819-3874

LODGED
APR - 1914
F. D. MONCKTON,

TITLE

NAMES AND ADDRESSES OF SOLICITORS UPON THIS APPEAL

For Appellants
OREGON & CALIFORNIA R. R. CO., et al.:

WM. F. HERRIN,
P. F. DUNNE,
J. E. FENTON,
San Francisco, Cal.
WM. D. FENTON,
Portland, Oregon.

For Appellant—UNION TRUST COMPANY,
DOLPH, MALLORY, SIMON & GEARIN,
Portland, Oregon.
MILLER, KING, LANE & TRAFFORD, and
JOHN C. SPOONER,
New York.

For Appellants—JNO. L. SNYDER, *et al.*:
A. W. LAFFERTY,
Portland, Oregon.

For Appellants—WM. F. SLAUGHTER, *et al.*:
L. C. GARRIGUS,
A. W. LAFFERTY,
MOULTON & SCHWARTZ,
Portland, Oregon.
DAY & BREWER,
Seattle, Wash.
A. C. WOODCOCK,
Eugene, Oregon.

For Appellee:

JAMES C. McREYNOLDS,
Attorney General.
CLARENCE L. REAMES,
U. S. Dist. Attorney for Oregon.
B. D. TOWNSEND,
F. C. RABB,
Special Assistants to the Attorney General.

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—o—

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And afterwards, to-wit, on the 29th day of August, 1913, there was duly filed in said court a Bond on Appeal, in words and figures as follows, to-wit:

(TITLE.)

KNOW ALL MEN BY THESE PRESENTS, That we, OREGON AND CALIFORNIA RAILROAD COMPANY, SOUTHERN PACIFIC COMPANY, STEPHEN T. GAGE, individually and as trustee, and UNION TRUST COMPANY of New York, individually and as truste, as principals, and NATIONAL SURETY COMPANY, corporation duly organized and existing under and by virtue of the laws of the State of New York, and as such corporation authorized to do business and doing business in the State of Oregon, as surety, are held and firmly bound unto the UNITED STATES OF AMERICA, the complainant in the above-entitled action, in the sum of One hundred thousand dollars ($100,000), to be paid to the said United States of America, complainant herein, its attorneys, officers or assigns, and for the payment of which sum, well and truly to be made, we bind ourselves and each of us, and our and each of our successors, associates, heirs, executors, administrators and assigns, jointly and severally firmly by these presents.

SEALED with our seals and dated this 26th day of August, 1913.

WHEREAS, the said defendants, the defendants

cross-complainants, and the interveners in the above-entitled cause have prosecuted an appeal to the United States Circuit Court of Appeals for the Ninth Circuit, to reverse the judgment and decree rendered and entered in the above-entitled cause in favor of the United States of America, the said complainant, and against the said defendants, the said defendants cross-complainants and the said interveners in the above entitled cause, on the first day of July, 1913, which said judgment and decree is hereby referred to and adopted as a part hereof:

NOW THEREFORE, the condition of this obligation is such that if said defendants, the said defendants cross-complainants, and the said interveners in the above-entitled action shall prosecute their said appeal to effect and answer all damages and costs, if they fail to make said appeal good, then this obligation shall be void; otherwise the same shall be and remain in full force and effect.

OREGON AND CALIFORNIA RAILROAD COMPANY

(SEAL) By E. E. CALVIN
Its Vice-President.

OREGON AND CALIFORNIA RAILROAD COMPANY

By G. S. KING
Its Assistant Secretary.

OREGON AND CALIFORNIA RAILROAD COMPANY

By P. F. DUNNE

WM. D. FENTON and

JAMES E. FENTON

Its Solicitors.

(SEAL) SOUTHERN PACIFIC COMPANY

By E. E. CALVIN

Its Vice-President.

SOUTHERN PACIFIC COMPANY

By G. S. KING,

Its Assistant Secretary.

SOUTHERN PACIFIC COMPANY

By P. F. DUNNE

WM. D FENTON and

JAMES E. FENTON

Its Solicitors

UNION TRUST COMPANY OF NEW YORK

Individually and as Trustee

By JOHN M. GEARIN

Its Attorney in Fact

STEPHEN T. GAGE
Individually and as Trustee

By E. E. CALVIN
His Agent and Attorney in Fact.

(SEAL) NATIONAL SURETY COMPANY
By JAS. McI. WOOD CO.

UNION TRUST COMPANY OF NEW YORK
Individually and as Trustee

By DOLPH, MALLORY, SIMON & GEARIN,
Its Attorneys and Solicitors.

STATE OF CALIFORNIA)
) ss.
CITY AND COUNTY OF)
SAN FRANCISCO)

On this 26th day of August, in the year One thousand nine hundred and thirteen, before me, Hugh T. Sime, a notary public in and for the County of San Francisco, residing therein duly commissioned and sworn, personally appeared *E. E. Calvin*, known to me to be the Vice-President, and *G. S. King*, known to me to be the Assistant Secretary, respectively, of the Oregon and California Railroad Company, of the corporation subscribed in and that executed the within instrument, and also known to me to be the persons who executed it on behalf of the corporation therein named, and they acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in the city and county of San Francisco, the day and year in this certificate first above written.

(SEAL) HUGH T. SIME

Notary Public in and for the City and County of San Francisco, State of California.

(Corporation)

STATE OF CALIFORNIA)
) ss.
CITY AND COUNTY OF)
SAN FRANCISCO)

On this 26th day of August, in the year One thousand nine hundred and thirteen, before me, Hugh T. Sime, a notary public in and for the County of San Francisco, residing therein, duly commissioned and sworn, personally appeared *E. E. Calvin,* known to me to be the Vice-President, and *G. S. King,* known to me to be the Assistant Secretary, respectively, of the Southern Pacific Company, of the corporation subscribed in and that executed the within instrument, and also known to me to be the persons who executed it on behalf of the corporation therein named, and they acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in the

city and county of San Francisco, the day and year in this certificate first above written.

(SEAL) HUGH T. SIME
Notary Public in and for the City and County of San Francisco, State of California.

(Corporation)

STATE OF CALIFORNIA)
) ss.
CITY AND COUNTY OF)
SAN FRANCISCO)

On this 26th day of August, in the year One thousand nine hundred and thirteen, before me, Hugh T. Sime, a notary public in and for the city and county of San Francisco, personally appeared *E. E. Calvin*, known to me to be the person whose name is subscribed to the within instrument as the attorney in fact of Stephen T. Gage, individually and as trustee, and acknowledged to me that he subscribed the name of Stephen T. Gage, individually and as trustee thereto as principal, and his own name as attorney in fact.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at my office in the city and county of San Francisco, the day and year in this certificate first above written.

(SEAL) HUGH T. SIME
Notary Public in and for the City and County of San Francisco, State of California.

Cowdery's Form No 24. (Acknowledgement—Attorney in fact)

The foregoing bond is hereby approved and the same shall operate as a supersedeas.

Done in open Court this 29th day of August, 1918.

CHARLES E. WOLVERTON
Judge of said District Court.

(Endorsed) Filed August 29, 1918, at 5:10 P. M. A. M. Cannon, Clerk United States District Court, by V. Johnston, Deputy.

And afterwards, to-wit, on August 29, 1918, there was duly filed in said court a Citation on Appeal, in words and figures as follows, to-wit:

(TITLE.)

United States of America, ss.

To United States of America.

To James C. McReynolds, Attorney General of the United States,

To B. D. Townsend, Special Assistant to the Attorney General of the United States, and

To Clarence L. Reames, United States Attorney for the District of Oregon.

GREETING.

Whereas, Oregon and California Railroad Company, Southern Pacific Company, Stephen T. Gage, individually and as trustee, and Union Trust Company, individually and as trustee, the defendants in the above entitled suit, and the defendants cross complainants in the above entitled suit, and the interveners in the above entitled suit, have appealed to the United States Circuit Court of Appeals for the Ninth Circuit from the judgment and decree made and rendered in the above entitled court in the above entitled cause and entered therein on the first day of July, A. D., nineteen hundred and thirteen, in favor of the United States of America, complainant in the above entitled cause, and against each and all of the said defendants therein, and against each and all of the said defendants cross complainants therein, and against each and all of the said interveners therein, and the said appeal has been allowed and the security required by law has been given; you are, therefore, hereby cited and admonished to be and appear in the United States Circuit Court of Appeals for the Ninth Circuit, at San Francisco, in the State of California, within thirty days from and after the date of this citation to show cause, if any there be, why the said judgment and decree appealed from should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness the Honorable Charles E. Wolverton, Judge of the United States District Court, for the dis-

trict of Oregon, with the seal of said court hereunto affixed, this 29th day of August, A. D., nineteen hundred and thirteen.

CHARLES E. WOLVERTON,
(SEAL) United States District Judge.

District of Oregon)
) ss.
County of Multnomah)

Due service of the within citation is hereby accepted in Multnomah County, Oregon, this 29th day of August, 1913,

JAS. C. McREYNOLDS, Attorney General U. S.,
B. D. TOWNSEND, Spcl. Asst. to Atty. Genl.
By GLENN E. HUSTED, Spl. Asst. to Atty. Genl.
Attorneys for Complainant.

CLARENCE L. REAMES,
United States Attorney,
By Robert R. Rankin,
Assistant United States Attorney.

(Endorsed) Filed August 29, 1913, A. M. Cannon, Clerk United States District Court, by V. Johnston, Deputy.

And afterwards, to-wit, on November 11, 1913, there was duly filed in said court the petition of John L. Snyder, et al, defendants-cross-complainants, and William F. Slaughter, et al, interveners, for separate appeal, in words and figures as follows, to-wit.

(TITLE.)

And they and each and all of the aforesaid interveners, defendants and cross-complainants hereinbefore named as petitioners herein, conceiving themselves aggrieved by the judgment and decree made and rendered in the above entitled court in the above entitled cause, and entered herein on the first day of July, A. D. 1913, at the March, 1913, term of said court, in favor of the complainant in the above entitled cause and against each and all of the said defendants therein, and against each and all of the said defendants-cross-complainants therein, and against each and all of the said interveners therein, wherein and whereby, among other things, it was and is adjudged and decreed that all of those certain lands and estates in lands described in the said judgment and decree, have become and now are forfeited to and the title to all of said lands and estates in lands has reverted to, and now is revested in, the United States of America, and all of said lands and estates in lands now are the absolute property of the United States of America free from any and all claim or claims of right, title, interest or lien in, to or upon the same or any part thereof, by or in favor of the defendants, cross-ocmplainants and interveners herein or either or any of them,

or any party or parties claiming under them or either or any of them; and

WHEREIN AND WHEREBY, among other things, it was and is further adjudged and decreed that the title of the United States of America to all of said lands and estates in lands be, and the same is hereby quieted and confirmed, and particularly as to any and all claim or claims of right, title, interest or lien in, to or upon the same or any part thereof, by or in favor of the defendants, cross-complainants and interveners herein, and each and every one of them, and each and every party or parties claiming under them or either or any of them; and

WHEREIN AND WHEREBY, among other things, it was and is further adjudged and decreed that each and all of the defendants, cross-complainants and interveners herein, and their respective officers and agents be, and they and each of them hereby are, forever enjoined and restrained from in any manner claiming or asserting any right, title, interest or lien in, to or upon the aforesaid lands and estates in lands, or any part thereof; and from in any manner selling, conveying, leasing or disposing of any of said lands or estates in lands, or any interest therein; and from negotiating, executing or recording any document or instrument, and from doing any other act or thing, which shall in any manner affect or encumber the title to said lands, or any part thereof; and from going upon said lands or any part thereof; and from cutting, removing or in any

manner using or injuring any of the timber or other natural products thereof; and from in any manner committing trespass upon said lands or any part thereof; and from in any manner using or interfering with said lands and estates in lands or any part thereof; or the title or possession thereof; and from contracting with, inviting, inducing, or in any manner whatsoever permitting others to do any of the things aforesaid; and

WHEREIN AND WHEREBY among other things it was and is further adjudged and decreed that the said judgment and decree shall not apply and is not intended to apply to reservations or exceptions of right-of-way for the main track of the railroad of the Oregon & California Railroad Company as actually constructed, established and in operation at the date of the said decree; and

WHEREIN AND WHEREBY among other things it was and is further adjudged and decreed that the defendants Oregon and California Railroad Company, Stephen T. Gage and Union Trust Company shall within sixty days from the date that any of said lands shall revert to said defendants or either or any of them in said decree mentioned, execute and file with the Clerk of the above entitled court, a deed of conveyance, in due and legal form, conveying and confirming the said lands unto the United States of America, free from any and all claim or claims of right, title, interest or lien in, to or upon the same, or on any part thereof, in favor of said defendants, or either or any of them. And

in the event that said defendants, or either or any of them, shall fail to execute and file any such deed or deeds of conveyance as aforesaid, the said judgment and decree shall operate, and shall have the same force and effect, as such deed or deeds of conveyance; and

WHEREIN AND WHEREBY among other things it was and is further adjudged and decreed that there be excepted from the operation of said judgment and decree all right-of-way and station grounds as established and in actual use at the date of said judgment and decree in the operation of the railroad of the defendant Oregon and California Railroad Company; and

WHEREIN AND WHEREBY among other things, it was and is further adjudged and decreed that within sixty days from the date of said judgment and decree the defendants, Oregon and California Railroad Company, Stephen T. Gage and Union Trust Company, shall execute and deliver to the Clerk of the above entitled Court a deed of conveyance in due and legal form, conveying and confirming unto the United States of America all of the said lands situated in the State of Washington, free and clear from any and all claim or claims of right, title, interest or lien in, to or upon the same, or any part thereof, in favor of the defendants herein or either or any of them, which said lands are particularly described in said judgment and decree; and

WHEREIN AND WHEREBY among other things it was and is further adjudged and decreed that

each and all of the cross-complaints and bills and petitions in intervention be and they are dismissed for want of equity with costs in favor of the prevailing parties, respectively, to be thereafter taxed; and

WHEREIN AND WHEREBY among other things it was and is further adjudged and decreed that the complainants' prayer for an accounting be and the same is denied; and

WHEREIN AND WHEREBY among other things it was and is further adjudged and decreed that the complainant, the United States of America have and recover from the defendants Oregon & California Railroad, Company, Southern Pacific Company, Stephen T. Gage and Union Trust Company its lawful costs and disbursements herein, and that execution issue therefor,

Do and each of them does hereby jointly and severally appeal from the said judment and decree and from the whole and from each and every part thereof;

And John L. Snyder and each and all of the aforesaid defendants-cross-complainants with him joined who are heretofore named as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therein on the 1st day of July, 1918, at the March, 1918 term of said court in favor of the complainant in the above entitled cause and against the defendant-cross-complainant John L. Snyder and against each and all of the other defendant-

cross-complainants with him joined, wherein and whereby it was and is adjudged and decreed that the motion of the complainant to strike the joint and several cross complaint of said John L. Snyder and others with him joined, be sustained and that said cross-complaint be stricken for want of equity therein.

Do and each of them does hereby jointly and severally appeal from the said judgment and order and from the whole and from each and every part thereof;

And Sidney Ben Smith and each and all of the aforesaid defendants-cross-complainants with him joined who are heretofore named as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therein on th 1st day of July, 1913 at the March, 1913 term of said court in favor of the complainant in the above entitled cause and against the defendant-cross-complainant Sidney Ben Smith and against each and all of the other defendant-cross-complainants with him joined, wherein and whereby it was and is adjudged and decreed that the motion of the complainant to strike the joint and several cross-complaint of said Sidney Ben Smith and others with him joined, be sustained and that said cross-complaint be stricken for want of equity therein.

Do and each of them does hereby jointly and severally appeal from the said judgment and order and from the whole and from each and every part thereof;

And John H. Haggett and each and all of the afore-

said defendants-cross-complainants with him joined who are heretofore named as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therein on the 1st day of July, 1913 at the March, 1913 term of said court in favor of the complainant in the above entitled cause and against the defendant-cross-complainant John H. Haggett and against each and all of the other defendant-cross-complainants with him joined, wherein and whereby it was and is adjudged and decreed that the motion of the complainant to strike the joint and several cross-complaint of said John H. Haggett and others with him joined, be sustained and that said cross-complaint be stricken for want of equity therein,

Do and each of them does hereby jointly and severally appeal from the said judgment and order and from the whole and from each and every part thereof;

And William F. Slaughter and each and all of the aforesaid interveners with him joined who are heretofore named as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therein on the 1st day of July, 1913 at the March, 1913 term of said court in favor of the complainant in the above entitled cause and against the intervener William F. Slaughter and against each and all of the other interveners with him joined, wherein and whereby it was and is adjudged and decreed that the

motion of the complainant to strike the joint and several petition in intervention of said William F. Slaughter and others with him joined, be sustained and that said petition in intervention be stricken for want of equity therein.

Do and each of them does hereby jointly and severally appeal from the said judgment and order and from the whole and from each and every part thereof;

And Edward D. Townsend and each and all of the aforesaid interveners with him joined who are heretofore named as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therein on the 1st day of July, 1913 at the March, 1913 term of said court in favor of the complainant in the above entitled cause and against the intervener Edward D. Townsend and against each and all of the other interveners with him joined, wherein and whereby it was and is adjudged and decred that the motion of the complainant to strike the joint and several petition in intervention of said Edward D. Townsend and others with him joined, be sustained and that said petition in intervention be stricken for want of equity therein,

Do and each of them does hereby jointly and severally appeal from the said judgment and order and from the whole and from each and every part thereof;

And John Burbee and each and all of the aforesaid interveners with him joined who are heretofore named

as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therein on the 1st day of July, 1913 at the March, 1913 term of said court in favor of the complainant in the above entitled cause and against the intervener John Burbee and against each and all of the other interveners with him joined, wherein and whereby it was and is adjudged and decreed that the motion of the complainant to strike the joint and several petition in intervention of said John Burbee and others with him joined, be sustained and that said petition in intervention be stricken for want of equity therein,

Do and each of them does hereby jointly and severally appeal from the said judgment and order and from the whole and from each and every part thereof;

And Milo F. Dennis and another of the aforesaid interveners with him joined who are heretofore named as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therein on the 1st day of July, 1913 at the March, 1913 term of said court in favor of the complainant in the above entitled cause and against the intervener Milo F. Dennis and against the other intervener with him joined, wherein and whereby it was and is adjudged and decreed that the motion of the complainant to strike the joint and several petition in intervention of said Milo F. Dennis and the other with him

joined, be sustained and that said petition in intervention be stricken for want of equity therein,

Do and each of them does hereby jointly and severally appeal from the said judgment and order and from the whole and from each and every part thereof;

And Frank Terrace and each and all of the aforesaid interveners with him joined who are heretofore named as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therein on the 1st day of July, 1913 at the March, 1913 term of said court in favor of the complainant in the above entitled cause and against the intervener Frank Terrace and against each and all of the other interveners with him joined, wherein and whereby it was and is adjudged and decreed that the motion of the complainant to strike the joint and several petition in intervention of said Frank Terrace and others with him joined, be sustained and that said petition in intervention be stricken for want of equity therein,

Do and each of them does hereby jointly and severally appeal from the said judgment and order and from the whole and from each and every part thereof;

And Charles J. Vanzile and each and all of the aforesaid interveners with him joined who are heretofore named as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above

entitled cause and entered therein on the 1st day of July, 1918 at the March, 1918 term of said court in favor of the complainant in the above entitled cause and against the intervener Charles J. Vanzile and against each and all of the other interveners with him joined, wherein and whereby it was and is adjudged and decreed that the motion of the complainant to strike the joint and several petition in intervention of said Charles J. Vanzile and others with him joined, be sustained and that said petition in intervention be stricken for want of equity therein.

Do and each of them does hereby jointly and severally appeal from the said judgment and order and from the whole and from each and every part thereof;

And Luther E. Trowbridge, the aforesaid intervener who is heretofore named as petitioner herein, conceiving himself aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therein on the 1st day of July, 1918 at the March, 1918 term of said court in favor of the complainant in the above entitled cause and against the intervener Luther E. Trowbridge, wherein and whereby it was and is adjudged and decreed that the motion of the complainant to strike the petition in intervention of the said Luther E. Trowbridge, be sustained and that said petition in intervention be stricken for want of equity therein,

Does hereby appeal from the said judgment and order and from the whole and from each and every part

thereof;

And Geo. W. Wright and each and all of the aforesaid interveners with him joined who are heretofore named as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therein on the 1st day of July, 1913 at the March, 1913 term of said court in favor of the complainant in the above entitled cause and against the intervener Geo. W. Wright and against each and all of the other interveners with him joined, wherein and whereby it was and is adjudged and decreed that the motion of the complainant to strike the joint and several petition in intervention of Geo. W. Wright and others with him joined, be sustained and that said petition in intervention be stricken for want of equity therein,

Do and each of them does hereby jointly and severally appeal from the said judgment and order and from the whole and from each and every part thereof;

And William E. Carter and each and all of the aforesaid interveners with him joined who are heretofore named as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therein on the 1st day of July, 1913 at the March, 1913 term of said court in favor of the complainant in the above entitled cause and against

the intervener William E. Carter and against each and all of the other interveners with him joined, wherein and whereby it was and is adjudged and decreed that the motion of the complainant to strike the joint and several petition in intervention of William E. Carter and others with him joined, be sustained and that said petition in intervention be stricken for want of equity therein,

Do and each of them does hereby jointly and severally appeal from the said judgment and order and from the whole and from each and every part thereof;

And Arthur R. Golder and each and all of the aforesaid interveners with him joined who are heretofore named as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therein on the 1st day of July, 1913 at the March, 1913 term of said court in favor of the complainant in the above entitled cause and against the intervener Arthur L. Golder and against each and all of the other interveners with him joined, wherein and whereby it was and is adjudged and decreed that the motion of the complainant to strike the joint and several petition in intervention of Arthur L. Golder and others with him joined, be sustained and that said petition in intervention be stricken for want of equity therein,

Do and each of them does hereby jointly and sev-

erally appeal from the said judgment and order and from the whole and from each and every part thereof;

And Elmer L. Hancock and each and all of the aforesaid interveners with him joined who are heretofore named as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therein on the 1st day of July, 1913 at the March, 1913 term of said court in favor of the complainant in the above entitled cause and against the intervener Elmer L. Hancock and against each and all of the other interveners with him joined, wherein and whereby it was and is adjudged and decreed that the motion of the complainant to strike the joint and several petition in intervention of Elmer L. Hancock and others with him joined, be sustained and that said petition in intervention be stricken for want of equity therein,

Do and each of them does hereby jointly and severally appeal from the said judgment and order and from the whole and from each and every part thereof;

And Robert Aistrop and each and all of the aforesaid interveners with him joined who are heretofore named as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therein on the 1st day of July, 1913 at the March, 1913 term of said court in favor of the complainant in the above entitled cause and against

the intervener Robert Aistrop and against each and all of the other interveners with him joined, wherein and whereby it was and is adjudged and decreed that the motion of the complainant to strike the joint and several petition in intervention of Robert Aistrop and others with him joined, be sustained and that said petition in intervention be stricken for want of equity therein,

Do and each of them does hereby jointly and severally appeal from the said judgment and order and from the whole and from each and every part thereof;

And William McLeod and each and all of the aforesaid interveners with him joined who are heretofore named as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therein on the 1st day of July, 1913 at the March, 1913 term of said court in favor of the complainant in the above entitled cause and against the intervener William McLeod and against each and all of the other interveners with him joined, wherein and whereby it was and is adjudged and decreed that the motion of the complainant to strike the joint and several petition in intervention of William McLeod and others with him joined, be sustained and that said petition in intervention be stricken for want of equity therein,

Do and each of them does hereby jointly and sev-

erally appeal from the said judgment and order and from the whole and from each and every part thereof;

And B. W. Nunnally and each and all of the aforesaid interveners with him joined who are heretofore named as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therein on the 1st day of July, 1913 at the March, 1913 term of said court in favor of the complainant in the above entitled cause and against the intervener B. W. Nunnally and against each and all of the other interveners with him joined, wherein and whereby it was and is adjujdged and decreed that the motion of the complainant to strike the joint and several petition in intervention of B. W. Nunnally and others with him joined, be sustained and that said petition in intervention be stricken for want of equity therein;

Do and each of them does hereby jointly and severally appeal from the said judgment and order and from the whole and from each and every part thereof;

And Paul C. L'amoreaux and each and all of the aforesaid interveners with him joined who are heretofore named as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therin on the 1st day of July, 1913 at the March, 1913 term of said court in favor of the complainant in the above entitled cause and

against the intervener Paul C. L'amoreaux and against each and all of the other interveners with him joined, wherein and whereby it was and is adjudged and decreed that the motion of the complainant to strike the joint and several petition in intervention of Paul C. L'amoreaux and others with him joined, be sustained and that said petition in intervention be stricken for want of equity therein,

Do and each of them does hereby jointly and severally appeal from the said judgment and order and from the whole and from each and every part thereof;

And John F. Fowler and each and all of the aforesaid interveners with him joined who are heretofore named as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therein on the 1st day of July, 1913, at the March, 1913 term of said court in favor of the complainant in the above entitled cause and against the intervenor John F. Fowler and against each and all of the other intervenors with him joined, wherein and whereby it was and is adjudged and decreed that the motion of the complainant to strike the joint and several petition in intervention of John F. Fowler and others with him joined, be sustained and that said petition in intervention be stricken for want of equity therein.

Do and each of them does hereby jointly and severally appeal from the said judgment and order and

from the whole and from each and every part thereof;

And L. C. Keylon and each and all of the aforesaid interveners with him joined who are heretofore named as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therein on the 1st day of July, 1913 at the March, 1913 term of said court in favor of the complainant in the above entitled cause and against the intervener L. C. Keylon and against each and all of the other interveners with him joined, wherein and whereby it was and is adjudged and decreed that the motion of the complainant to strike the joint and several petition in intervention of L. C. Keylon and others with him joined, be sustained and that said petition in intervention be stricken for want of equity therein,

Do and each of them does hereby jointly and severally appeal from the said judgment and order and from the whole and from each and every part thereof;

And R. E. Cameron and each and all of the aforesaid interveners with him joined who are heretofore named as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therein on the 1st day of July, 1913 at the March, 1913 term of said court in favor of the complainant in the above entitled cause and against the interveners R. E. Cameron and against each and all of the other interveners with him joined, wherein

and whereby it was and is adjudged and decreed that the motion of the complainant to strike the joint and several petition in intervention of R. E. Cameron and others with him joined, be sustained and that said petition in intervention be stricken for want of equity therein.

Do and each of them does hereby jointly and severally appeal from the said judgment and order and from the whole and from each and every part thereof;

And Charles W. Varnum and each and all of the aforesaid interveners with him joined who are heretofore named as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therein on the 1st day of July, 1913 at the March, 1913 term of said court in favor of the complainant in the above entitled cause and against the intervener Charles W. Varnum and against each and all of the other interveners with him joined, wherein and whereby it was and is adjudged and decreed that the motion of the complainant to strike the joint and several petition in intervention of Charles W. Varnum and others with him joined, be sustained and that said petition in intervention be stricken for want of equity therein,

Do and each of them does hereby jointly and severally appeal from the said judgment and order and from the whole and from each and every part thereof;

And Nicholas Herrman and each and all of the afore-

said intervenors with him joined who are heretofore named as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therein on th 1st day of July, 1913 at the March, 1913 term of said court in favor of the complainant in the above entitled cause and against the intervener Nicholas Herrman and against each and all of the other interveners with him joined, wherein and whereby it was and is adjudged and decreed that the motion of the complainant to strike the joint and several petition in intervention of Nicholas Herrman and others with him joined, be sustained and that said petition in intervention be stricken for want of equity therein,

Do and each of them does hereby jointly and severally appeal from the said judgment and order and from the whole and from each and every part thereof;

And Edwin F. Anderson and each and all of the aforesaid interveners with him joined who are heretofore named as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therein on the 1st. day of July, 1913, at the March, 1913 term of said court in favor of the complainant in the above entitled cause and against the intervener Edwin F. Anderson and against each and all of the other interveners with him joined, wherein and whereby it was and is adjudged

and decreed that the motion of the complainant to strike the joint and several petition in intervention of Edwin F. Anderson and others with him joined, be sustained and that said petition in intervention be stricken for want of equity therein,

Do and each of them does hereby jointly and severally appeal from the said judgment and order and from the whole and from each and every part thereof;

And Fred J. Gould and each and all of the aforesaid interveners with him joined who are heretofore named as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therein on the 1st. day of July, 1913 at the March, 1913 term of said court in favor of the complainant in the above entitled cause and against the intervener Fred J. Gould and against each and all of the other interveners with him joined, wherein and whereby it was and is adjudged and decreed that the motion of the complainant to strike the joint and several petition in intervention of Fred J. Gould and others with him joined, be sustained and that said petition in intervention be stricken for want of equity therein,

Do and each of them does hereby jointly and severally appeal from the said judgment and order and from the whole and from each and every part thereof;

And Abram B. Horner and each and all of the afore-

said interveners with him joined who are heretofore named as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therein on the 1st. day of July, 1913 at the March, 1913 term of said court in favor of the complainant in the above entitled cause and against the intervener Abram B. Horner and against each and all of the other interveners with him joined, wherein and whereby it was and is adjudged and decreed that the motion of the complainant to strike the joint and several petition in intervention of Abram B. Horner and others with him joined, be sustained and that said petition in intervention be stricken for want of equity therein.

Do and each of them does hereby jointly and severally appeal from the said judgment and order and from the whole and from each and every part thereof;

And George B. Bothwell and each and all of the aforesaid interveners with him joined who are heretofore named as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therein on the 1st. day of July, 1913 at the March, 1913 term of said court in favor of the complainant in the above entitled cause and against the intervener George B. Bothwell and against each and all of the other interveners with him joined, wherein and whereby it was and is adjudged and decreed that the

motion of the complainant to strike the joint and several petition in intervention of George B. Bothwell and others with him joined, be sustained and that said petition in intervention be stricken for want of equity therein.

Do and each of them does hereby jointly and severally appeal from the said judgment and order and from the whole and from each and every part thereof;

And Hervey L. Keyes and each and all of the aforesaid interveners with him joined who are heretofore named as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therein on the 1st. day of July, 1913, at the March, 1913 term of said court in favor of the complainant in the above entitled cause and against the intervener Hervey L. Keyes and against each and all of the other interveners with him joined, wherein and whereby it was and is adjudged and decreed that the motion of the complainant to strike the joint and several petition in intervention of Hervey L. Keyes and others with him joined, be sustained and that said petition in intervention be stricken for want of equity therein,

Do and each of them does hereby jointly and severally appeal from the said judgment and order and from the whole and from each and every part thereof;

And Marvin P. Alford and each and all of the afore-

said interveners with him joined who are heretofore named as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therein on the 1st. day of July, 1913 at the March, 1913 term of said court in favor of the complainant in the above entitled cause and against the intervener Marvin P. Alford and against each and all of the other interveners with him joined, wherein and whereby it was and is adjudged and decreed that the motion of the complainant to strike the joint and several petition in intervention of Marvin P. Alford and others with him joined, be sustained and that said petition in intervention be stricken for want of equity therein,

Do and each of them does hereby jointly and severally appeal from the said judgment and order and from the whole and from each and every part thereof;

And Albert Bozarth and each and all of the aforesaid interveners with him joined who are heretofore named as petitioners herein, conceiving themselves aggrieved by the judgment and order of the court, made and rendered in the above entitled court in the above entitled cause and entered therein on the 1st. day of July, 1913 at the March, 1913 term of said court in favor of the complainant in the above entitled cause and against the intervenor Albert Bozarth and against each and all of the other interveners with him joined, wherein and whereby it was and is adjudged and decreed that the

motion of the complainant to strike the joint and several petition in intervention of Albert Bozarth and others with him joined, be sustained and that said petition in intervention be stricken for want of equity therein,

Do and each of them does hereby jointly and severally appeal from the said judgment and order and from the whole thereof and from each and every part thereof and do and each of them does hereby jointly and severally further appeal from the orders and decrees and from the whole and each and every part thereof heretofore herein rendered in said cause on July 1, 1918, wherein and whereby upon motion of the Oregon and California Railroad Company, Southern Pacific Company, Stephen T. Gage, individually and as trustee, Union Trust Company, individually and as trustee, it was adjudged and decreed that the complaints of cross-complainants and each thereof and the petitions in intervention and each thereof, therein and theretofore filed in said cause should be and were dismissed at the costs of the said cross-complainants and said interveners, and each thereof, severally.

TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT:

And all of your petitioners herein do and each of them does file herewith their and each of their assignments of error asserted and intended to be urged upon this their said appeal and all of your petitioners herein do and each of them does pray that their said petition for appeal and their said appeal may be allowed and that citation issue herein as provided by law and that a transcript of the record proceedings and papers upon which said judgment and decree was made and entered and upon which each of the said several orders was made and entered all duly authenticated, may be sent to the United States Circuit Court of Appeals for the Ninth Circuit.

And also that an order be made fixing the amount of security which your petitioners shall give and furnish upon this their said appeal.

And your petitioners will ever pray.

A. W. LAFFERTY,

Solicitors and Attorneys for said defendants cross complainants, John L. Snyder, Julius F. Prahl, Albert E. Thompson, James Barr, Fred Witte, W. A. Anderson, W. H. Anderson, O. M. Anderson, F. E. Williams, Paul Birkenfeld, J. H. Lewis, Francis S. Wiser, W. E. Anderson, Albert Arms, Joseph A. Maxwell, Isaac McKay, J. R. Peterson, D. MacLafferty, Edgar MacLafferty, V. V. McAboy, George C. MacLafferty, George Edgar MacLafferty, E. L. MacLafferty, B. N. MacLafferty, Enos M. Fluhrer, F. W. Floeter, and S. Shryock.

A. W. LAFFERTY,

Solicitors and Attorneys for said defendants cross complainants, Sidney Ben Smith, Orrin J. Lawrence, Robert G. Balderree, Oscar E. Smith, Egbert C. Lake, C. W. Sloat, Jesse F. Holbrook, A. E. Haudenschield, S. H. Montgomery, W. A. Noland, James C. O'Neill, Alexander Fauske, Francis Wiest, Cordelia Michael, John B. Wiest, Cyrus Wiest, John Wiest, Thomas

Manley Hill, Otto Nelson, Jasper L. Hewitt, B. L. Porter, Frank Wells, C. P. Wells, I. H. Ingram, L. G. Reeves, W. W. Wells, F. M. Rhoades, Roy W. Minkler, and Marvin Martin.

MOULTON & SCHWARTZ,

LEWIS C. GARRIGUS,

Socilitors and Attorneys for said defendants cross complainants, John H. Haggett, Charles W. Mead, William Otterstrom, Angus MacDonald, John T. Moan, Joseph D. Hadley, Henry C. Ott, Fred L. Freebing, William Cain, R. T. Aldrich, and O. V. Hickman.

A. C. WOODCOCK,

E. L. C. FARRIN,

DAN R. MURPHY,

Solicitors and Attorneys for said interveners William F. Slaughter and each and all of the persons whose names are specifically set forth in the above title to this cause, com-

mencing with and including the said William F. Slaughter, down to and including Arthur Persinger, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 24th day of September, 1908.

L. G. ENGLISH,

Solicitors and Attorneys for the said interveners Edward D. Townsend, Louis G. English, Ralph W. Core and Edgar O. Holladay.

A. W. LAFFERTY,

Solicitors and Attorneys for the said interveners John Burbee, Marion Smith, Charles Burbee, Oscar H. Sherman and Charles Wiest.

A. W. LAFFERTY,

Solicitors and Attorneys for the said interveners Milo F. Dennis and Leopold H. Deitz.

SHEPARD &

BURKHEIMER,

Successors to

SHEPARD & FLETT;

JOHN E. BURKHEIMER,

CHARLES E. SHEPARD,

C. I. LEAVENGOOD,

Solicitors and Attorneys for the said interveners Frank Terrace and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Frank Terrace, down to and including John Zoffi, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 2nd day of December, 1908.

LEROY LOMAX,

Of Solicitors and Attorneys for the said interveners Charles J. Vanzile and each and all of the persons whose names are speci-

fically set forth in the above title to this cause, commencing with and including the said Charles J. Vanzile, down to and including E. R. Seeley, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 28rd day of December, 1908.

MOULTON & SCHWARTZ,

LEWIS C. GARRIGUS,

Solicitors and Attorneys for the said intervener Luther E. Trowbridge.

A. C. WOODCOCK,

GEO. W. WRIGHT,

Solicitors and Attorneys for the said interveners George W. Wright, William W. Bailey, Willetta Wright, W. H. Queener, Eulah Wright and Joseph E. Wright.

A. W. LAFFERTY,

Solicitors and Attorneys for the said interveners Arthur L. Golder, George W. Trefen and Lewis J. Trefen.

A. W. LAFFERTY,

Solicitors and Attorneys for the said interveners William E. Carter, Frank Carter and William H. Prentice.

DAY & BREWER,

JNO. MILLS DAY,

Solicitors and Attorneys for the said interveners Elmer L. Hancock and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Elmer L. Hancock, down to and including Lucius P. Ranous, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 8th day of February, 1909.

OGLESBY YOUNG,

LEWIS C. GARRIGUS,

Solicitors and Attorneys for the said interveners Robert Aistrop, Herb Palmer, Clara L. Palmer, Tina Palmer, P. L. Palmer, Walter Anderson, Lewis Johanson, Edwin Rice, W. C. Rhude and Frank A. Durrah.

A. W. LAFFERTY,

Solicitors and Attorneys for the said interveners William McLeod, Charles O. Anderson, John B. McLeod, John L. Morgan, A. N. Sarjent, J. W. Sargent, Travis Martin, Fred A. Sarjent, J. W. McDonald, E. J. Pearl, Robert C. Martin, Susan Martin, Gertie Martin, Susie Martin, B. S. Martin, S. L. Overton, L. Overton, H. A. Foley, D. O. Cross, and R. C. Foley.

LEWIS C. GARRIGUS,

Solicitors and Attorneys for the said interveners B. W. Nunnally, William Weist, John Weist, Francis Weist, Geo. E. Walling, W. D. Sappington, Edward E. Stucker and O. N. Cranor.

G. G. SCHMITT,

GRIDLEY, CULVER

& KIND,

PAUL C. L'AMOREAUX,

Solicitors and Attorneys for the said interveners Paul C. L'Amoreaux, Albert E. Barkman, Clyde M. Adair, Carrie M.

Wicker, Julia S. Skilton, Edward H. White, Olive Maguire, Coleman S. Everett, Isadore Whiteson, Harry Hamill, John C. Hamill, Julia R. Fox, Henry W. McFarlane, Fred G. Merrill, Edward Robertson Abbot, Manning D. L'Amoreaux, Agnes G. Stewart, Ida M. Pahlman and Rose L'Amoreaux.

B. W. COINER,

JNO. MILLS DAY,

Solicitors and Attorneys for the said interveners John F. Fowler, and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said John F. Fowler, down to and including Minnette Johnson, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 1st day of March, 1909.

L. D. MAHONE,

Solicitors and Attorneys for the said interveners L. C. Keylon, E. E. Keylon, C. S.

Staats, E. J. Staats, Rodney C. White, Ida A. White, Grant Nixon, Adolphus Gaunt, and Anton Carlson.

DAY & BREWER,

JNO. MILLS DAY,

Solicitors and Attorneys for the said interveners R. E. Cameron and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said R. E. Cameron, down to and including John A. Miller, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 1st day of March, 1909.

SETON & STRAHAN,

CLAUDE STRAHAN,

LEWIS C. GARRIGUS,

Solicitors and Attorneys for the said interveners Charles W. Varnum, Elizabeth M. Edwards, Thomas F. Hartzel, Madge Bartholomew, Daisy Lebo, Mary E. Black, Arthur J. Pate, Flora E. King, Howard

S. Robertson, W. E. Bowdon, Frank B. Mauzer, F. H. Southerland, M. B. Carpenter, H. E. Gould, J. N. Husted, Magdalene Haycox, Samuel Haycox, Louise Rommel, R. W. Edwards, Robert James, Clare M. James, Albert Trego, Leta G. Trego, Harry Hurlbut, Hally E. Hurlbut, Charles E. Pate, Benjamin Bowles, Jesse Bowles, Peter J. Oleson, Frances R. Hopper, Miller E. Preston, Willis G. Mudd, A. C. Spencer, Martin Herbert Kennedy, Dell Dickson, Chauncey Thomas, Frank B. Manzer and Adeline James.

LEROY LOMAX,

Of Solicitors and Attorneys for the said interveners Nicholas Herrman, Robert Kruse, George W. Sepham, F. E. Gige, Emma Case, Celia Zaugg, George F. Brooks, Harriett Poll, Mary S. Blair, Jay Tice, Frank E. Poll, R. E. Andrews, John Subert, F. K. Kamp, James McHugh, C. B. Hurby, J. E. Ketcham, G. A. Huntzicher, August Matz, Maud Stewart, Fred C. Lundy, Charles F. Barnes, F. A. Hildebrand, Henry A. Balles, J. P. Tiffault, Fred Bustrin, H. M. Bustrin, Byron G. Hall, William O. Hall, Charles E. Lennan,

Hortence B. Lennan, P. G. Larson, William Hoeck and Henry Hoeck.

PARIS MARTIN,

JNO. MILLS DAY,

Solicitors and Attorneys for the said interveners Edwin F. Anderson and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Edwin F. Anderson, down to and including Montello Gray, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 12th day of May, 1909.

LEWIS C. GARRIGUS,

EUGENE BLAND,

Solicitors and Attorneys for the said interveners Fred J. Gould and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Fred J. Gould, down to and including E. G. Bentley, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 28th day of July, 1909.

PETER J. DANHOFF, and

H. M. ESTERLY,

Solicitors and Attorneys for the said interveners Abram B. Horner and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Abram B. Horner, down to and including William Thwaites, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 15th day of December, 1909.

LEWIS C. GARRIGUS,

EUGENE BLAND,

Solicitors and Attorneys for the said interveners George B. Bothwell and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said George B. Bothwell, down to and including Leota Travers, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 6th day of October, 1909.

PETER J. DANHOFF, and

H. M. ESTERLY,

Solicitors and Attorneys for the said interveners, Hervey L. Keyes, Chester H. Thornson, Chester H. Thomson, Lyn S. Carter, Byron D. West, George W. Jackson, Laura E. Singer, Alba L. Holmes, Harold R. Nye, Miles B. Campbell, James A. Roxburgh, James A. Rosburgh, Walter J. Hills, Leo A. Caro, Homer F. Van Drezer, Christopher M. Kelly, Samuel B. Ardis, Charles H. Winchester, Charles B. Winchester, Charles J. Kindel, Albert Vandenberg, Anna H. Tromper, Anna H. Trompen, John N. Tromper, John N. Trompen, Joe Van Arondonk, Ira Lubbers, Reimer Van Soest, E. J. Hyink, Henry Strakes, Cornelius Schaap, Elbert S. Schilstra, Henry K. Boer, John De Haan, William Bommelje, Benjamin Hoffman, Peter Bogema, John Bosker, Jacob P. Bosker, Edward C. Smith, John W. Huenink, John H. Huenink, Bertha Moe Seaver, and Elmer H. Ruslink.

LEWIS C. GARRIGUS,

EUGENE BLAND,

Solicitors and Attorneys for the said inter-

veners Marvin P. Alford and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Marvin P. Alford, down to and including Donald C. Barber, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 14th day of February, 1910.

H. G. LAKE,

LEWIS C. GARRIGUS,

Solicitors and Attorneys for the said interveners Albert Bozarth and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Albert Bozarth, down to and including Retta E. Bishard, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 15th day of March, 1910.

A copy of the above and foregoing petition for appeal received and due notice thereof admitted this 8 day of November, A. D. 1918.

Clarence L. Reames,
United States Attorney.
By Robert R. Rankin,
Assistant United States Attorney.

Jas. C. McReynolds,
Attorney General U. S.
B. D. Townsend,
Special Assistant to Attorney General.
By Fred C. Rabb,
Special Assistant to Attorney General.

Solicitors and Attorneys for the Complainant, The United States of America.

Wm. D. Fenton,
P. F. Dunne,
Wm. F. Herrin,

Solicitors and Attorneys for the Defendants Oregon and California Railroad Company, Southern Pacific Company, and Stephen T. Gage, individually and as Trustee.

Jno. M. Gearin,

Solicitor and Attorney for the Defendant Union Trust Company of New York, individually and as Trustee.

The above and foregoing petition is granted and the appeal allowed upon giving bond for costs in the sum of Five Hundred Dollars.

Done in open Court this 11 day of October, A. D. 1918.

Chas. E. Wolverton,
Judge.

(Endorsed) Filed November 11, 1918, A. M. Cannon, Clerk United States District Court, by G. H. Marsh, Deputy.

And thereupon, by order of court, said Assignments of Errors of John L. Snyder, et al, hereinbefore set out, was re-filed in said court on November 11, 1918.

(Endorsed) Re-filed November 11, 1918, A. M. Cannon, Clerk United States District Court.

And thereafter on November 11, 1913, there was duly filed in said court the joint and several Assignments of Errors of John H. Haggett and others, defendants-cross-complainants, and William F. Slaughter and others, interveners, in separate appeal, in words and figures as follows, to-wit:

(TITLE).

And they do and each of them does complain of errors in the proceedings in the above entitled cause in the District Court of the United States for the District of Oregon and in the several judgments and orders of dismissal made and rendered therein and in the decision, judgment and decree made and rendered therein all of which were entered therein on the first day of July, 1913 at the March, 1913 term of said Court, which said several judgments and orders of dismissal and which said decision, judgment and decree and the substance thereof is and are set forth and described in the joint and several petition for appeal of the cross-complainants and interveners herein herewith filed and to which said several judgments and orders of dismissal and to which proceedings, decision, judgment and decree these assignments of error pertain and relate,

And these interveners and cross-complainants do say and each of them says that said proceedings and said several judgments and orders of dismissal were and are and said decision, judgment and decree was and is

against the just rights of these interveners and each of them and against the just rights of these cross-complainants and each of them.

And, there being many parties hereto and many others similarly situated, for the purpose of simplifying the record and preventing a great multiplicity and duplication of the assignments of error herein, these assignments of error are made by all and each of the parties hereto on their own behalf and on behalf of each of them, with the intent that each assignment shall be considered and taken as the assignment of each and all persons upon behalf of whom it may apply and be pertinent.

And in that behalf and for that purpose these interveners and these cross-complainants do and each of them does jointly and severally assign the following as errors complained of and intended to be urged by them and each of them upon said appeal, that is to say:

1

The Court erred in sustaining the demurrer of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to the cross-complaint of the defendant, John H. Haggett and the other defendants with him in his said bill joined, for want of equity in said bill, and

2

The Court erred in sustaining the demurrer of the

defendant, Union Trust Company, individually and as Trustee, to the cross-complainant of said defendants, for want of equity in said bill, and

3

The Court erred in sustaining the motion of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to strike the cross-complaint of said defendants, for want of equity in said bill, and

4

The Court erred in sustaining the motion of the defendant, Union Trust Company, individually and as Trustee, to strike the cross-complaint of said defendants, for want of equity in said bill, and

5

The Court erred in sustaining the motion of the complainant for an order striking the cross-complaint of said defendants, and in granting and entering the order striking said bill, for want of equity in said bill, and

6

The Court erred in not requiring the Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to answer said cross-complaint, and

7

The Court erred in not requiring the Union Trust Company, individually and as Trustee, to answer said cross-complaint, and

8

The Court erred in not requiring the complainant to answer said cross-complaint, and

9

The Court erred in not granting to said defendants and each of them, the relief prayed for by them and each of them respectively, in said bill, and

10

The Court erred in not granting to said defendants or any of them, any equitable relief, as

Said cross-complaint contains allegations and matters entitling said defendants and each of them to equitable relief, and

Said cross-complaint contains allegations and matters entitling said defendants and each of them to the relief prayed for by them and each of them respectively, in said bill.

11

The Court erred in sustaining the demurrer of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to the bill of intervention of the intervener William F. Slaughter, and the other interveners with him in his said bill joined, for want of equity in said bill, and

12

The Court erred in sustaining the demurrer of the defendant, Union Trust Company, individually and as Trustee, to the bill of intervention of said interveners, for want of equity in said bill, and

13

The Court erred in sustaining the motion of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to strike the bill of intervention of said interveners, for want, of equity in said bill, and

14

The Court erred in sustaining the motion of the defendant, Union Trust Company, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

15

The Court erred in sustaining the motion of the complainant for an order striking the bill of intervention of said interveners, and in granting and entering the order striking said bill, for want of equity in said bill, and

16

The Court erred in not requiring the Oregon & California Railroad Company, Southern Pacific Company

and Stephen T. Gage, individually and as Trustee, to answer said bill in intervention and

17

The Court erred in not requiring the Union Trust Company, individually and as Trustee, to answer said bill in intervention and

18

The Court erred in not requiring the complainant to answer said bill in intervention, and

19

The Court erred in not granting to said interveners and each of them, the relief prayed for bv them and each of them, respectively in said bill, and

20

The Court erred in not granting to said interveners or any of them, any equitable relief,

As said bill of intervention contains allegations and matters entitling said interveners and each of them to equitable relief, and

Said bill of intervention contains allegations and matters entitling the said interveners, and each of them to the relief prayed for by them and each of them respectively in said bill.

21

The Court erred in sustaining the demurrer of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to the bill of intervention of the interveners, Edward D. Townsend and the other interveners with him in his said bill joined, for want of equity in said bill, and

22

The Court erred in sustaining the demurrer of the defendant, Union Trust Company, individually and as Trustee, to the bill of intervention of said interveners, for want of equity in said bill, and

23

The Court erred in sustaining the motion of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to strike the bill of intervention of said interveners, for want, of equity in said bill, and

24

The Court erred in sustaining the motion of the defendant, Union Trust Company, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

25

The Court erred in sustaining the motion of the complainant for an order striking the bill of intervention of said interveners, and in granting and entering the order striking said bill, for want of equity in said bill, and

26

The Court erred in not requiring the Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to answer said bill in intervention and

27

The Court erred in not requiring the Union Trust Company, individually and as Trustee, to answer said bill in intervention and

28

The Court erred in not requiring the complainant to answer said bill in intervention, and

29

The Court erred in not granting to said interveners and each of them, the relief prayed for by them and each of them, respectively in said bill, and

30

The Court erred in not granting to said interveners or any of them, any equitable relief,

As said bill of intervention contains allegations and

matters entitling said interveners and each of them to equitable relief, and

Said bill of intervention contains allegations and matters entitling the said interveners, and each of them to the relief prayed for by them and each of them respectively in said bill.

31

The Court erred in sustaining the demurrer of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to the bill of intervention of the intervener John Burbee, and the other interveners with him in his said bill joined, for want of equity in said bill, and

32

The Court erred in sustaining the demurrer of the defendant, Union Trust Company, individually and as Trustee, to the bill of intervention of said interveners, for want of equity in said bill, and

33

The Court erred in sustaining the motion of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

34

The Court erred in sustaining the motion of the defendant, Union Trust Company, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

35

The Court erred in sustaining the motion of the complainant for an order striking the bill of intervention of said interveners, and in granting and entering the order striking said bill, for want of equity in said bill, and

36

The Court erred in not requiring the Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to answer said bill in intervention and

37

The Court erred in not requiring the Union Trust Company, individually and as Trustee, to answer said bill in intervention and

38

The Court erred in not requiring the complainant to answer said bill in intervention, and

39

The Court erred in not granting to said interveners

and each of them, the relief prayed for by them and each of them, respectively in said bill, and

40

The Court erred in not granting to said interveners or any of them, any equitable relief,

As said bill of intervention contains allegations and matters entitling said interveners and each of them to equitable relief, and

Said bill of intervention contains allegations and matters entitling the said interveners, and each of them to the relief prayed for by them and each of them respectively in said bill.

41

The Court erred in sustaining the demurrer of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to the bill of intervention of the intervener, Milo F. Dennis, and the other interveners with him in his said bill joined, for want of equity in said bill, and

42

The Court erred in sustaining the demurrer of the defendant, Union Trust Company, individually and as Trustee, to the bill of intervention of said interveners, for want of equity in said bill, and

43

The Court erred in sustaining the motion of the de-

fendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

44

The Court erred in sustaining the motion of the defendant, Union Trust Company, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

45

The Court erred in sustaining the motion of the complainant for an order striking the bill of intervention of said interveners, and in granting and entering the order striking said bill, for want of equity in said bill, and

46

The Court erred in not requiring the Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to answer said bill in intervention, and

47

The Court erred in not requiring the Union Trust Company, individually and as Trustee, to answer said bill in intervention, and

48

The Court erred in not requiring the complainant to answer said bill in intervention, and

49

The Court erred in not granting to said interveners and each of them, the relief prayed for by them and each of them, respectively in said bill, and

50

The Court erred in not granting to said interveners or any of them, any equitable relief,

As said bill of intervention contains allegations and matters entitling said interveners and each of them to equitable relief, and

Said bill of intervention contains allegations and matters entitling the said interveners, and each of them to the relief prayed for by them and each of them respectively in said bill.

51

The Court erred in sustaining the demurrer of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to the bill of intervention of the intervener, Frank Terrace, and the other interveners with him in his said bill joined, for want of equity in said bill, and

52

The Court erred in sustaining the demurrer of the defendant, Union Trust Company, individually and as Trustee, to the bill of intervention of said interveners, for want of equity in said bill, and

53

The Court erred in sustaining the motion of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

54

The Court erred in sustaining the motion of the defendant, Union Trust Company, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

55

The Court erred in sustaining the motion of the complainant for an order striking the bill of intervention of said interveners, and in granting and entering the order striking said bill, for want of equity in said bill, and

56

The Court erred in not requiring the Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to answer said bill in intervention, and

57

The Court erred in not requiring the Union Trust

Company, individually and as Trustee, to answer said bill in intervention, and

58

The Court erred in not requiring the complainant to answer said bill in intervention, and

59

The Court erred in not granting to said interveners and each of them, the relief prayed for by them and each of them, respectively in said bill, and

60

The Court erred in not granting to said interveners or any of them, any equitable relief,

As said bill of intervention contains allegations and matters entitling said interveners and each of them to equitable relief, and

Said bill of intervention contains allegations and matters entitling the said interveners, and each of them to the relief prayed for by them and each of them respectively in said bill.

61

The Court erred in sustaining the demurrer of the defendants, Oregon & California Railroad Company,

Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to the bill of intervention of the interveners, Charles J. Vanzile, and the other interveners with him in his said bill joined, for want of equity in said bill, and

62

The Court erred in sustaining the demurrer of the defendant, Union Trust Company, individually and as Trustee, to the bill of intervention of said interveners, for want of equity in said bill, and

63

The Court erred in sustaining the motion of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

64

The Court erred in sustaining the motion of the defendant, Union Trust Company, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

65

The Court erred in sustaining the motion of the complainant for an order striking the bill of intervention of

said interveners, and in granting and entering the order striking said bill, for want of equity in said bill, and

66

The Court erred in not requiring the Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to answer said bill in intervention, and

67

The Court erred in not requiring the Union Trust Company, individually and as Trustee, to answer said bill in intervention, and

68

The Court erred in not requiring the complainant to answer said bill in intervention, and

69

The Court erred in not granting to said interveners and each of them, the relief prayed for by them and each of them, respectively, in said bill, and

70

The Court erred in not granting to said interveners or any of them, any equitable relief,

As said bill of intervention contains allegations and matters entitling said interveners and each of them to equitable relief, and

Said bill of intervention contains allegations and matters entitling the said interveners, and each of them to the relief prayed for by them and each of them respectively in said bill.

71

The Court erred in sustaining the demurrer of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to the bill of intervention of the intervener, Luther E. Trowbridge, and the other interveners with him in his said bill joined, for want of equity in said bill, and

72

The Court erred in sustaining the demurrer of the defendant, Union Trust Company, individually and as Trustee, to the bill of intervention of said interveners, for want of equity in said bill, and

73

The Court erred in sustaining the motion of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, in-

dividually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

74

The Court erred in sustaining the motion of the defendant, Union Trust Company, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

75

The Court erred in sustaining the motion of the complainant for an order striking the bill of intervention of said interveners, and in granting and entering the order striking said bill, for want of equity in said bill, and

76

The Court erred in not requiring the Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to answer said bill in intervention, and

77

The Court erred in not requiring the Union Trust Company, individually and as Trustee, to answer said bill in intervention, and

78

The Court erred in not requiring the complainant to answer said bill in intervention, and

79

The Court erred in not granting to said interveners and each of them, the relief prayed for by them and each of them, respectively in said bill, and

80

The Court erred in not granting to said interveners or any of them, any equitable relief,

As said bill of intervention contains allegations and matters entitling said interveners and each of them to equitable relief, and

Said bill of intervention contains allegations and matters entitling the said interveners, and each of them to the relief prayed for by them and each of them respectively in said bill.

81

The Court erred in sustaining the demurrer of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to the bill of intervention of the intervener, Geo. W. Wright, and the other inter-

veners with him in his said bill joined, for want of equity in said bill, and

82

The Court erred in sustaining the demurrer of the defendant, Union Trust Company, individually and as Trustee, to the bill of intervention of said interveners, for want of equity in said bill, and

83

The Court erred in sustaining the motion of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

84

The Court erred in sustaining the motion of the defendant, Union Trust Company, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

85

The Court erred in sustaining the motion of the complainant for an order striking the bill of intervention of said interveners, and in granting and entering the order

striking said bill, for want of equity in said bill, and

86

The Court erred in not requiring the Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to answer said bill in intervention, and

87

The Court erred in not requiring the Union Trust Company, individually and as Trustee, to answer said bill in intervention, and

88

The Court erred in not requiring the complainant to answer said bill in intervention, and

89

The Court erred in not granting to said interveners and each of them, the relief prayed for by them and each of them, respectively in said bill, and

90

The Court erred in not granting to said interveners or any of them, any equitable relief.

As said bill of intervention contains allegations and

matters entitling said interveners and each of them to equitable relief, and

Said bill of intervention contains allegations and matters entitling the said interveners, and each of them to the relief prayed for by them and each of them respectively in said bill.

91

The Court erred in sustaining the demurrer of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to the bill of intervention of the intervener, Elmer L. Hancock and the other interveners with him in his said bill joined, for want of equity in said bill, and

92

The Court erred in sustaining the demurrer of the defendant, Union Trust Company, individually and as Trustee, to the bill of intervention of said interveners, for want of equity in said bill, and

93

The Court erred in sustaining the motion of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to strike the bill of interven-

tion of said interveners, for want of equity in said bill, and

94

The Court erred in sustaining the motion of the defendant, Union Trust Company, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

95

The Court erred in sustaining the motion of the complainant for an order striking the bill of intervention of said interveners, and in granting and entering the order striking said bill, for want of equity in said bill, and

96

The Court erred in not requiring the Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to answer said bill in intervention, and

97

The Court erred in not requiring the Union Trust Company, individually and as Trustee, to answer said bill in intervention, and

98

The Court erred in not requiring the complainant to answer said bill in intervention, and

99

The Court erred in not granting to said interveners and each of them, the relief prayed for by them and each of them, respectively, in said bill, and

100

The Court erred in not granting to said interveners or any of them, any equitable relief,

As said bill of intervention contains allegations and matters entitling said interveners and each of them to equitable relief, and

Said bill of intervention contains allegations and matters entitling the said interveners and each of them, to the relief prayed for by them and each of them, respectively, in said bill.

101

The Court erred in sustaining the demurrer of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to the bill of intervention of the

intervener, Robert Aistrop, and the other interveners with him in his said bill joined, for want of equity in said bill, and

102

The Court erred in sustaining the demurrer of the defendant, Union Trust Company, individually and as Trustee, to the bill of intervention of said interveners, for want of equity in said bill, and

103

The Court erred in sustaining the motion of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

104

The Court erred in sustaining the motion of the defendant, Union Trust Company, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

105

The Court erred in sustaining the motion of the complainant for an order striking the bill of intervention of said interveners, and in granting and entering the or-

der striking said bill, for want of equity in said bill, and

106

The Court erred in not requiring the Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to answer said bill of intervention, and

107

The Court erred in not requiring the Union Trust Company, individually and as Trustee, to answer said bill in intervention, and

108

The Court erred in not requiring the complainant to answer said bill in intervention, and

109

The Court erred in not granting to said interveners and each of them, the relief prayed for by them and each of them, respectively, in said bill, and

110

The Court erred in not granting to said interveners or any of them, any equitable relief,

As said bill of intervention contains allegations and

matters entitling said interveners and each of them to equitable relief, and

Said bill of intervention contains allegations and matters entitling the said interveners and each of them, to the relief prayed for by them and each of them, respectively, in said bill.

111

The Court erred in sustaining the demurrer of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to the bill of intervention of the intervener, B. W. Nunnally, and the other interveners with him in his said bill joined, for want of equity in said bill, and

112

The Court erred in sustaining the demurrer of the defendant, Union Trust Company, individually and as Trustee, to the bill of intervention of said interveners, for want of equity in said bill, and

113

The Court erred in sustaining the motion of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

114

The Court erred in sustaining the motion of the defendant, Union Trust Company, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

115

The Court erred in sustaining the motion of the complainant for an order striking the bill of intervention of said interveners, and in granting and entering the order striking said bill, for want of equity in said bill, and

116

The Court erred in not requiring the Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to answer said bill in intervention, and

117

The Court erred in not requiring the Union Trust Company, individually and as Trustee, to answer said bill in intervention, and

118

The Court erred in not requiring the complainant to answer said bill in intervention, and

119

The Court erred in not granting to said interveners and each of them, the relief prayed for by them and each of them, respectively, in said bill, and

120

The Court erred in not granting to said interveners or any of them, any equitable relief,

As said bill of intervention contains allegations and matters entitling said interveners and each of them to equitable relief, and

Said bill of intervention contains allegations and matters entitling the said interveners and each of them, to the relief prayed for by them and each of them, respectively, in said bill.

121

The Court erred in sustaining the demurrer of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to the bill of intervention of the intervener, Paul C. L'Amoreaux, and the other interveners with him in his said bill joined, for want of equity in said bill, and,

122

The Court erred in sustaining the demurrer of the defendant, Union Trust Company, individually and as

Trustee, to the bill of intervention of said interveners, for want of equity in said bill, and

123

The Court erred in sustaining the motion of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

124

The Court erred in sustaining the motion of the defendant, Union Trust Company, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

125

The Court erred in sustaining the motion of the complainant for an order striking the bill of intervention of said interveners, and in granting and entering the order striking said bill, for want of equity in said bill, and

126

The Court erred in not requiring the Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to answer said bill in intervention, and

127

The Court erred in not requiring the Union Trust

Company, individually and as Trustee, to answer said bill in intervention, and

128

The Court erred in not requiring the complainant to answer said bill in intervention, and

129

The Court erred in not granting to said interveners and each of them, the relief prayed for by them and each of them, respectively, in said bill, and

130

The Court erred in not granting to said interveners or any of them, any equitable relief,

As said bill of intervention contains allegations and matters entitling said interveners and each of them to equitable relief, and

Said bill of intervention contains allegations and matters entitling the said interveners and each of them, to the relief prayed for by them and each of them, respectively, in said bill.

131

The Court erred in sustaining the demurrer of the defendants, Oregon & California Railroad Company,

Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to the bill of intervention of the intervener, John F. Fowler, and the other interveners with him in his said bill joined, for want of equity in said bill, and

132

The Court erred in sustaining the demurrer of the defendant, Union Trust Company, individually and as Trustee, to the bill of intervention of said interveners, for want of equity in said bill, and

133

The Court erred in sustaining the motion of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

134

The Court erred in sustaining the motion of the defendant, Union Trust Company, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

135

The Court erred in sustaining the motion of the

complainant for an order striking the bill of intervention of said interveners, and in granting and entering the order striking said bill, for want of equity in said bill, and

186

The Court erred in not requiring the Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to answer said bill in intervention, and

187

The Court erred in not requiring the Union Trust Company, individually and as Trustee, to answer said bill in intervention, and

188

The Court erred in not requiring the complainant to answer said bill in intervention, and

189

The Court erred in not granting to said interveners and each of them, the relief prayed for by them and each of them, respectively, in said bill, and

140

The Court erred in not granting to said interveners or any of them, any equitable relief,

As said bill of intervention contains allegations and matters entitling said interveners and each of them to equitable relief, and

Said bill of intervention contains allegations and matters entitling the said interveners and each of them, to the relief prayed for by them and each of them, respectively, in said bill.

141

The Court erred in sustaining the demurrer of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to the bill of intervention of the intervener, L. C. Keylon, and the other interveners with him in his said bill joined, for want of equity in said bill, and

142

The Court erred in sustaining the demurrer of the defendant, Union Trust Company, individually and as Trustee, to the bill of intervention of said interveners, for want of equity in said bill, and

143

The Court erred in sustaining the motion of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to strike the bill of inter-

vention of said interveners, for want of equity in said bill, and

144

The Court erred in sustaining the motion of the defendant, Union Trust Company, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

145

The Court erred in sustaining the motion of the complainant for an order striking the bill of intervention of said interveners, and in granting and entering the order striking said bill, for want of equity in said bill, and

146

The Court erred in not requiring the Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to answer said bill in intervention, and

147

The Court erred in not requiring the Union Trust Company, individually and as Trustee, to answer said bill in intervention, and

148

The Court erred in not requiring the complainant

to answer said bill in intervention, and

149

The Court erred in not granting to said interveners and each of them, the relief prayed for by them and each of them, respectively, in said bill, and

150

The Court erred in not granting to said interveners or any of them, any equitable relief,

As said bill of intervention contains allegations and matters entitling said interveners and each of them to equitable relief, and

Said bill of intervention contains allegations and matters entitling the said interveners and each of them, to the relief prayed for by them and each of them, respectively, in said bill.

151

The Court erred in sustaining the demurrer of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to the bill of intervention of the intervener, R. E. Cameron, and the other interveners with him in his said bill joined, for want of equity in said bill, and

152

The Court erred in sustaining the demurrer of the defendant, Union Trust Company, individually and as Trustee, to the bill of intervention of said interveners, for want of equity in said bill, and

153

The Court erred in sustaining the motion of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

154

The Court erred in sustaining the motion of the defendant, Union Trust Company, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

155

The Court erred in sustaining the motion of the complainant for an order striking the bill of intervention of said interveners, and in granting and entering the order striking said bill, for want of equity in said bill, and

156

The Court erred in not requiring the Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to answer said bill in intervention, and

157

The Court erred in not requiring the Union Trust Company, individually and as Trustee, to answer said bill in intervention, and

158

The Court erred in not requiring the complainant to answer said bill in intervention, and

159

The Court erred in not granting to said interveners and each of them, the relief prayed for by them and each of them, respectively, in said bill, and

160

The Court erred in not granting to said interveners or any of them, any equitable relief,

As said bill of intervention contains allegations and matters entitling said interveners and each of them to equitable relief, and

Said bill of intervention contains allegations and matters entitling the said interveners and each of them, to the relief prayed for by them and each of them, respectively, in said bill.

161

The Court erred in sustaining the demurrer of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to the bill of intervention of the intervener, Charles W. Varnum, and the other interveners with him in his said bill joined, for want of equity in said bill, and

162

The Court erred in sustaining the demurrer of the defendant, Union Trust Company, individually and as Trustee, to the bill of intervention of said interveners, for want of equity in said bill, and

163

The Court erred in sustaining the motion of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

164

The Court erred in sustaining the motion of the defendant, Union Trust Company, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

165

The Court erred in sustaining the motion of the complainant for an order striking the bill of intervention of said interveners, and in granting and entering the order striking said bill, for want of equity in said bill, and

166

The Court erred in not requiring the Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to answer said bill in intervention, and

167

The Court erred in not requiring the Union Trust Company, individually and as Trustee, to answer said bill in intervention, and

168

The Court erred in not requiring the complainant to answer said bill in intervention, and

169

The Court erred in not granting to said interveners and each of them, the relief prayed for by them and each of them, respectively, in said bill, and

170

The Court erred in not granting to said interveners or any of them, any equitable relief,

As said bill of intervention contains allegations and matters entitling said interveners and each of them to equitable relief, and

Said bill of intervention contains allegations and matters entitling the said interveners and each of them, to the relief prayed for by them and each of them, respectively, in said bill.

171

The Court erred in sustaining the demurrer of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to the bill of intervention of the intervener, Nicholas Herrman, and the other interveners with him in his said bill joined, for want of equity in said bill, and

172

The Court erred in sustaining the demurrer of the defendant, Union Trust Company, individually and as

Trustee, to the bill of intervention of said interveners, for want of equity in said bill, and

173

The Court erred in sustaining the motion of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

174

The Court erred in sustaining the motion of the defendant, Union Trust Company, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

175

The Court erred in sustaining the motion of the complainant for an order striking the bill of intervention of said interveners, and in granting and entering the order striking said bill, for want of equity in said bill, and

176

The Court erred in not requiring the Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to answer said bill in intervention, and

177

The Court erred in not requiring the Union Trust Company, individually and as Trustee, to answer said bill in intervention, and

178

The Court erred in not requiring the complainant to answer said bill in intervention, and

179

The Court erred in not granting to said interveners and each of them, the relief prayed for by them and each of them, respectively, in said bill, and

180

The Court erred in not granting to said interveners or any of them, any equitable relief,

As said bill of intervention contains allegations and matters entitling said interveners and each of them to equitable relief, and

Said bill of intervention contains allegations and matters entitling the said interveners and each of them, to the relief prayed for by them and each of them, respectively, in said bill.

181

The Court erred in sustaining the demurrer of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to the bill of intervention of the intervener, Edwin F. Anderson, and the other interveners with him in his said bill joined, for want of equity in said bill, and

182

The Court erred in sustaining the demurrer of the defendant, Union Trust Company, individually and as Trustee, to the bill of intervention of said interveners, for want of equity in said bill, and

183

The Court erred in sustaining the motion of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

184

The Court erred in sustaining the motion of the defendant, Union Trust Company, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

185

The Court erred in sustaining the motion of the complainant for an order striking the bill of intervention of said interveners, and in granting and entering the order striking said bill, for want of equity in said bill, and

186

The Court erred in not requiring the Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to answer said bill in intervention, and

187

The Court erred in not requiring the Union Trust Company, individually and as Trustee, to answer said bill in intervention, and

188

The Court erred in not requiring the complainant to answer said bill in intervention, and

189

The Court erred in not granting to said interveners and each of them, the relief prayed for by them and each of them, respectively, in said bill, and

190

The Court erred in not granting to said interveners

or any of them, any equitable relief,

As said bill of intervention contains allegations and matters entitling said interveners and each of them to equitable relief, and

Said bill of intervention contains allegations and matters entitling the said interveners and each of them, to the relief prayed for by them and each of them, respectively, in said bill.

191

The Court erred in sustaining the demurrer of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to the bill of intervention of the intervener, Fred J. Gould, and the other interveners with him in his said bill joined, for want of equity in said bill, and

192

The Court erred in sustaining the demurrer of the defendant, Union Trust Company, individually and as Trustee, to the bill of intervention of said interveners, for want of equity in said bill, and

193

The Court erred in sustaining the motion of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, in-

dividually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

194

The Court erred in sustaining the motion of the defendant, Union Trust Company, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

195

The Court erred in sustaining the motion of the complainant for an order striking the bill of intervention of said interveners, and in granting and entering the order striking said bill, for want of equity in said bill, and

196

The Court erred in not requiring the Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to answer said bill in intervention, and

197

The Court erred in not requiring the Union Trust Company, individually and as Trustee, to answer said bill in intervention, and

198

The Court erred in not requiring the complainant to answer said bill in intervention, and

199

The Court erred in not granting to said interveners and each of them, the relief prayed for by them and each of them, respectively, in said bill, and

200

The Court erred in not granting to said interveners or any of them, any equitable relief,

As said bill of intervention contains allegations and matters entitling said interveners and each of them to equitable relief, and

Said bill of intervention contains allegations and matters entitling the said interveners and each of them, to the relief prayed for by them and each of them, respectively, in said bill.

201

The Court erred in sustaining the demurrer of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to the bill of intervention of the intervener, Abram B. Horner, and the other interveners with him in his said bill joined, for want of equity in said bill, and

202

The Court erred in sustaining the demurrer of the defendant, Union Trust Company, individually and as Trustee, to the bill of intervention of said interveners, for want of equity in said bill, and

203

The Court erred in sustaining the motion of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

204

The Court erred in sustaining the motion of the defendant, Union Trust Company, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

205

The Court erred in sustaining the motion of the complainant for an order striking the bill of intervention of said interveners, and in granting and entering the order striking said bill, for want of equity in said bill, and

206

The Court erred in not requiring the Oregon &

California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to answer said bill in intervention, and

207

The Court erred in not requiring the Union Trust Company, individually and as Trustee, to answer said bill in intervention, and

208

The Court erred in not requiring the complainant to answer said bill in intervention, and

209

The Court erred in not granting to said interveners and each of them, the relief prayed for by them and each of them, respectively, in said bill, and

210

The Court erred in not granting to said interveners or any of them, any equitable relief,

As said bill of intervention contains allegations and matters entitling said interveners and each of them to equitable relief, and

Said bill of intervention contains allegations and matters entitling the said interveners and each of them,

to the relief prayed for by them and each of them, respectively, in said bill.

211

The Court erred in sustaining the demurrer of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to the bill of intervention of the intervener, George B. Bothwell, and the other interveners with him in his said bill joined, for want of equity in said bill, and

212

The Court erred in sustaining the demurrer of the defendant, Union Trust Company, individually and as Trustee, to the bill of intervention of said interveners, for want of equity in said bill, and

213

The Court erred in sustaining the motion of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

214

The Court erred in sustaining the motion of the

defendants, Union Trust Company, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

215

The Court erred in sustaining the motion of the complainant for an order striking the bill of intervention of said interveners, and in granting and entering the order striking said bill, for want of equity in said bill, and

216

The Court erred in not requiring the Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to answer said bill in intervention, and

217

The Court erred in not requiring the Union Trust Company, individually and as Trustee, to answer said bill in intervention, and

218

The Court erred in not requiring the complainant to answer said bill in intervention, and

219

The Court erred in not granting to said interveners

and each of them, the relief prayed for by them and each of them, respectively, in said bill, and

220

The Court erred in not granting to said interveners or any of them, any equitable relief,

As said bill of intervention contains allegations and matters entitling said interveners and each of them to equitable relief, and

Said bill of intervention contains allegations and matters entitling the said interveners and each of them, to the relief prayed for by them and each of them, respectively, in said bill.

221

The Court erred in sustaining the demurrer of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to the bill of intervention of the intervener, Hervey L. Keyes, and the other interveners with him in his said bill joined, for want of equity in said bill, and

222

The Court erred in sustaining the demurrer of the defendants, Union Trust Company, individually and as Trustee, to the bill of intervention of said interveners, for want of equity in said bill, and

223

The Court erred in sustaining the motion of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

224

The Court erred in sustaining the motion of the defendant, Union Trust Company, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

225

The Court erred in sustaining the motion of the complainant for an order striking the bill of intervention of said interveners, and in granting and entering the order striking said bill, for want of equity in said bill, and

226

The Court erred in not requiring the Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to answer said bill in intervention, and

227

The Court erred in not requiring the Union Trust

Company, individually and as Trustee, to answer said bill in intervention, and

228

The Court erred in not requiring the complainant to answer said bill in intervention, and

229

The Court erred in not granting to said interveners and each of them, the relief prayed for by them and each of them, respectively, in said bill, and

230

The Court erred in not granting to said interveners or any of them, any equitable relief,

As said bill of intervention contains allegations and matters entitling said interveners and each of them to equitable relief, and

Said bill of intervention contains allegations and matters entitling the said interveners and each of them, to the relief prayed for by them and each of them, respectively, in said bill.

231

The Court erred in sustaining the demurrer of the defendants, Oregon & California Railroad Company,

Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to the bill of intervention of the intervener, Marvin P. Alford, and the other interveners with him in his said bill joined, for want of equity in said bill, and

282

The Court erred in sustaining the demurrer of the defendants, Union Trust Company, individually and as Trustee, to the bill of intervention of said interveners, for want of equity in said bill, and

283

The Court erred in sustaining the motion of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

284

The Court erred in sustaining the motion of the defendant, Union Trust Company, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

285

The Court erred in sustaining the motion of the

complainant for an order striking the bill of intervention of said interveners, and in granting and entering the order striking said bill, for want of equity in said bill, and

236

The Court erred in not requiring the Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to answer said bill in intervention, and

237

The Court erred in not requiring the Union Trust Company, individually and as Trustee, to answer said bill in intervention, and

238

The Court erred in not requiring the complainant to answer said bill in intervention, and

239

The Court erred in not granting to said interveners and each of them, the relief prayed for by them and each of them, respectively, in said bill, and

240

The Court erred in not granting to said interveners or any of them, any equitable relief,

As said bill of intervention contains allegations and matters entitling said interveners and each of them to equitable relief, and

Said bill of intervention contains allegations and matters entitling the said interveners and each of them, to the relief prayed for by them and each of them, respectively, in said bill.

241

The Court erred in sustaining the demurrer of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to the bill of intervention of the intervener, Albert Bozarth, and the other interveners with him in his said bill joined, for want of equity in said bill, and

242

The Court erred in sustaining the demurrer of the defendant, Union Trust Company, individually and as Trustee, to the bill of intervention of said interveners, for want of equity in said bill, and

243

The Court erred in sustaining the motion of the defendants, Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to strike the bill of interven-

tion of said interveners, for want of equity in said bill, and

244

The Court erred in sustaining the motion of the defendant, Union Trust Company, individually and as Trustee, to strike the bill of intervention of said interveners, for want of equity in said bill, and

245

The Court erred in sustaining the motion of the complainant for an order striking the bill of intervention of said interveners, and in granting and entering the order striking said bill, for want of equity in said bill, and

246

The Court erred in not requiring the Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee, to answer said bill in intervention, and

247

The Court erred in not requiring the Union Trust Company, individually and as Trustee, to answer said bill in intervention, and

248

The Court erred in not requiring the complainant

to answer said bill in intervention, and

249

The Court erred in not granting to said interveners and each of them, the relief prayed for by them and each of them, respectively, in said bill, and

250

The Court erred in not granting to said interveners or any of them, any equitable relief,

As said bill of intervention contains allegations and matters entitling said interveners and each of them to equitable relief, and

Said bill of intervention contains allegations and matters entitling the said interveners and each of them, to the relief prayed for by them and each of them, respectively, in said bill.

251

The Court erred in holding that these interveners and cross-complainants were not entitled to the relief prayed for by them and each of them, respectively, and

252

The Court erred in not holding that these interveners and cross-complainants were entitled to the relief prayed

for by them and each of them respectively, and

253

The Court erred in holding that none of these interveners and cross-complainants were entitled to the relief prayed for by them, and

254

The Court erred in holding that none of these interveners and cross-complainants were entitled to any relief;

As, their said bills of intervention and cross-complaint and each of them, contain allegations and matters entitling these interveners and cross-complainants and each of them, to equitable relief; and

Said bills of intervention and cross-complaint and each of them, contain allegations and matters entitling the interveners and cross-complainants and each of them, to the relief prayed for by them and each of them, respectively, in their said bills.

255

The Court erred in holding that the United States, complainant herein, was entitled to a forfeiture of the lands or any of the lands sought to be purchased by the interveners and cross-complainants herein or any of them.

256

The Court erred in not holding that the United States, complainant herein, was not entitled to a forfeiture of the lands or any of the lands sought to be purchased by the interveners and cross-complainants herein or any of them.

257

The Court erred in holding that the lands or any thereof described in this decree, were and had been forfeited to the complainant, and that a decree be entered forfeiting said lands, or any thereof, to the complainant.

258

The Court erred in holding that the lands sought to be purchased by the interveners and cross-complainants herein, should be forfeited.

259

The Court erred in holding that the lands or any thereof sought to be purchased by these interveners and cross-complainants, or any of them, described in said decree, were and had been forfeited to the United States, complainant herein, and that a decree be entered forfeiting said lands or any thereof to the complainant.

260

The Court erred in holding that the proviso in the said act of April 10, 1869, was a condition subsequent.

261

The Court erred in holding that the proviso in the amendment of April 10, 1869, requiring the sale of lands to actual settlers only, in quantities not exceeding one-quarter section to any one purchaser and at a price not to exceed $2.50 per acre was or is a condition subsequent, the breach of which entitled the United States, complainant herein, to a forfeiture of the lands covered by said land grant.

262

The Court erred in not holding that the proviso in the amendment of April 10, 1869, requiring the sale of land to actual settlers only, in quantities not exceeding one-quarter section to any one purchaser and at a price not to exceed $2.50 per acre, was not and is not a condition subsequent, the breach of which would entitle the United States, complainant, to a forfeiture of the lands covered by said grant.

263

The Court erred in holding that the provision in the act of May 4, 1870, requiring the sale of lands to

actual settlers only, in quantities not exceeding one-quarter section to any one purchaser and at a price not to exceed $2.50 per acre, was or is a condition subsequent, the breach of which entitled the United States, complainant herein, to a forfeiture of the lands covered by said land grant.

264

The Court erred in not holding that the provision in the act of May 4, 1870, requiring the sale of lands to actual settlers only, in quantities not exceeding one-quarter section to any one purchaser and at a price not to exceed $2.50 per acre, was not nor is not a condition subsequent, the breach of which would entitle the United States, complainant, to a forfeiture of the lands covered by said land grant.

265

The Court erred in holding that the consequence and penalty of forfeiture was attached by Congress to a breach, should such there be, of the proviso of April 10, 1869.

266

The Court erred in holding that the consequence and penalty of forfeiture was intended by Congress to be attached to a breach, should such there be, of the covenant or proviso in the act of April 10, 1869, requiring sales of land to settlers.

267

The Court erred in holding that the provision in the West Side grant, requiring sales to settlers, was a condition subsequent, and

268

The Court erred in not holding that the provision in the West Side grant, requiring sales to settlers, was not a condition subsequent, as

(a) Said provision is not coupled with and does not contain any appropriate words importing a condition subsequent, and

(b) Said provision does not contain any language importing a right to forfeiture or re-entry for condition broken.

269

The Court erred in holding that the consequence and penalty of forfeiture was attached by Congress to a breach, should such there be, of any provision of said act of May 4, 1870, touching sales to actual settlers.

270

The Court erred in holding that the consequence and penalty of forfeiture was intended by Congress to be attached to a breach, should such there be, of the covenant or provision in the act of May 4, 1870, requiring sales to settlers.

271

The Court erred in holding that there was jurisdiction in the Court on the equity side to enforce a forfeiture of said East Side grant for the breach of an assumed condition subsequent if such there was, in said proviso of said act of April 10, 1869.

272

The Court erred in holding that there was jurisdiction in the Court on the equity side to decree a forfeiture of the title of the defendants to the lands embraced in and covered by the East Side grant, for breach of an assumed condition subsequent in the proviso contained in the act of April 10, 1869.

273

The Court erred in assuming jurisdiction on the equity side to enforce a forfeiture of the East Side grant for breach of an assumed condition subsequent in the proviso in the act of April 10, 1869, as

(a) The effect of such assumption was to divest the interests of the interveners and cross-complainants which had become vested, in parts of said East Side grant, under the terms of said proviso, and

(b) No declaration of forfeiture had ever been made by Congress prior to the vesting of such interest, and

(c) No declaration of forfeiture had been made by Congress prior to the entry of said decree, and

(d) No declaration of forfeiture had been made by Congress prior to the commencement of said suit.

274

The Court erred in holding that there was jurisdiction in the court on the equity side to enforce a forfeiture for the breach of an assumed condition subsequent, if such breach there was, in any provision of said act of May 4, 1870.

275

The Court erred in holding that there was jurisdiction in the Court on the equity side of decree a forfeiture of the title of the defendants to the lands embraced in and covered by the West Side grant, for breach of an assumed condition subsequent contained in the act of May 4, 1870.

276

The Court erred in assuming jurisdiction on the equity side to enforce a forfeiture of the West Side grant for breach of an assumed condition subsequent contained in said grant, as

(a) The effect of such assumption was to divest the interests of the interveners and cross-complainants,

which had become vested in parts of the West Side grant, under the terms of said grant, and

(b) No declaration of forfeiture had ever been made by Congress prior to the vesting of such interest, and

(c) No declaration of forfeiture had been made by Congress prior to the entry of said decree, and

(d) No declaration of forfeiture had been made by Congress prior to the commencement of said suit.

277

The Court erred in holding that by its joint resolution of April 13, 1908, the Congress of the United States forfeited or intended to forfeit, or authorized the forfeiture by the Attorney General or intended to authorize the forfeiture by the Attorney General, or authorized or intended to authorize or empower the Court to forfeit or decree a forfeiture of the lands embraced within the East Side grant, for or on account of any assumed breach of conditions of the proviso of the act of April 10, 1869.

278

The Court erred in holding that by its joint resolution of April 30, 1908, the Congress of the United States forfeited or intended to forfeit, or authorized the forfeiture by the Attorney General, or intended to authorize the forfeiture by the Attorney General, or

authorized or intended to authorize or empower the Court to forfeit or decree a forfeiture of the lands embraced within the West Side grant for or on account of any assumed breach of condition contained in said grant.

279

The Court erred in holding that there was any cause of action or foundation of jurisdiction for forfeiture in respect to either of said grants, in any re-entry for breach of condition or legislation equivalent thereof, or in any legislative declaration of forfeiture.

280

The Court erred in not holding that the proviso in the amendatory act of April 10, 1869, requiring sales to settlers, was not sufficiently definite to be enforced as a condition subsequent.

—

As such proviso does not contain any words importing a right of forfeiture or re-entry for condition broken.

281

The Court, being a court of equity, erred in decreeing a forfeiture to the complainant of all right and interest of the defendants in or to the lands embraced within the grant of 1866, for breach of the assumed condition contained in the amendment of April 10, 1869, as

(a) Assuming that said proviso was a condition

subsequent, for breach of which forfeiture could be had, such condition subsequent was and is also a covenant; and

(b) The complainant prayed in its bill of complaint for a specific performance of this covenant, and

(c) Such forfeiture was and is inequitable and should not be decreed by any court of equity where there is any other means of doing justice between the parties; and

(d) The complainant prayed for specific performance of the covenant, and the Court should have granted such prayer, as by such performance justice and equity could have been done to all of the parties to the suit without forfeiture; and

(e) The Court was without jurisdiction to and it was inequitable for it to divest the defendant, Oregon and California Railroad Company of title as trustee for the benefit of the interveners and cross-complainants, sestui que trustent, with interests vested prior to said decree; and

(f) In divesting the railroad company of title by forfeiture, the Court, in effect, imposed a penalty upon the railroad company to the extent of its interest in the land forfeited, to-wit: in the amount of $2.50 per acre for each acre of the land so forfeited, for and on account of the breach of its covenant, the imposing of which penalty is wholly inequitable, and

(g) By forfeiture the Court divested the vested interest of these interveners and cross-complainants and each of them, without any fault on their part or on the part of any of them, all of which is wholly inequitable.

282

The Court, being a court of equity, erred in decreeing a forfeiture to the complaint, of all right and interest of the defendants, in or to the lands embraced within the West Side land grant, for breach of the assumed condition contained in the act of May 4, 1870, as

(a) Assuming that said provision was a condition subsequent, for breach of which forfeiture could be had, such condition subsequent was and is also a covenant; and

(b) The complainant prayed in its bill of complaint for a specific performance of this covenant, and

(c) Such forfeiture was and is inequitable and should not be decreed by any court of equity where there is any other means of doing justice between the parties; and

(d) The complainant prayed for specific performance of the covenant, and the Court should have granted such prayer, as by such performance justice and equity could have been done to all of the parties to the suit without forfeiture; and

(e) The Court was without jurisdiction to and

it was inequitable for it to divest defendant, Oregon and California Railroad Company of title as trustee for the benefit of the interveners and cross-complainants, sestui qui trustent, with interests vested prior to said decree; and

(f) In divesting the railroad company of title by forfeiture, the Court, in effect, imposed a penalty upon the railroad company to the extent of its interest in the land forfeited, to-wit: in the amount of $2.50 per acre for each acre of the land forfeited, for and on account of the breach of its covenant, the imposing of which penalty is wholly inequitable, and

(g) By forfeiture the Court divested the vested interest of these interveners and cross-complainants and each of them, without any fault on their part or on the part of any of them, all of which is wholly inequitable.

283

The Court erred in not holding that this suit cannot be maintained by complainant as one to enforce forfeiture nor to quiet title, as

(a) Neither the United States nor Congress has declared a forfeiture; and

(b) The fact of forfeiture had not been adjudicated by a court of law; and

(c) The defendant, railroad company, holds legal title to and the possession of said granted lands; and

(d) Complainant having asked for forfeiture and in the alternative, for specific performance, this suit cannot be maintained for forfeiture, since equitable relief may be granted by specific performance; and

(e) In view of specific performance, a decree quieting title in the Government, cannot be had.

284

The Court erred in not holding that the Government was estopped to claim forfeiture of the lands embraced within each and both of said land grants, as

(a) The Government in its bill of complaint bases its right to recover, upon the refusal of the railroad company to sell said lands to the interveners and cross-complainants and others similarly situated, and

(b) The Government in its bill of complaint prayed that these interveners and cross-complainants might be permitted to enforce their rights herein, and

(c) The Government having come into a court of equity is estopped to claim forfeiture when equitable relief by performance can be had; and

(d) The Government is estopped to claim forfeiture in lieu of performance, since the interveners and cross-complainants have come into court upon the invitation of the Government and furnished the means whereby performance may be had.

285

The Court erred in holding that the provisions in each and both of said land grants concerning sales to settlers, are negative provisions only, designed to prevent sales to others than settlers in quantities greater than one-quarter section to any one purchaser and at prices greater than $2.50 per acre, and not positive provisions requiring sales to settlers in quantities not greater than one-quarter section to any one purchaser and at a price not greater than $2.50 per acre.

286

The Court erred in not holding that the provisions of each and both of said land grants concerning sales to settlers were both positive and negative, requiring the grantee to sell to settlers, who should apply to buy, not more than one-quarter section, at a price not greater than $2.50 per acre, and requiring said grantee to refrain from selling any of the granted lands to others than settlers or in quantities greater than one-quarter section or at a price greater than $2.50 per acre.

287

The Court erred in holding that the provisions in each and both of said land grants, requiring sales to settlers, are not positive covenants which may be specifically enforced.

288

The Court erred in holding that the provisions in each and both of said land grants requiring sales to settlers, is a negative covenant only, which may be enforced by the Government only, and that the only means of such enforcement are by forfeiture for breach thereof.

289

The Court erred in decreeing a forfeiture of those lands included in either or both of the grants to the railroad company or which the interveners and cross-complainants had made application to purchase from and tendered to the railroad company the sum of $2.50 per acre and offered to become actual settlers on the lands so applied for, prior to the adoption by Congress of the joint resolution of April 30, 1908, as

By so applying, tendering the purchase price and offering to become an actual settler upon the lands so applied for, each intervener and cross-complainant has acquired a vested interest in the land applied for, which cannot be divested by Congress, assuming that said provisions are conditions subsequent, and that the adoption of said joint resolution by Congress was a declaration of forfeiture for breach thereof.

290

The Court erred in holding that although the pro-

visions in each and both of said land grants were designed to devote the lands conveyed by said grants, to settlement and tillage and to prevent the monopoly of the land and that such grants were laws as well as grants, that notwithstanding the railroad company might defeat the purposes of the provisions requiring sales to settlers, by themselves monopolizing and holding the lands and refusing to sell them at all, and by refusing to sell any of them except to such persons and in such quantities as it saw fit within the price and terms provided in the grant.

291

The Court erred in not holding that the purpose of the joint resolution of Congress of April 30, 1908, was to authorize the enforcement of a forfeiture for any breach of an assumed condition subsequent in either of said land grants, as an alternative only, of the refusal of the railroad company to perform the covenants requiring sales to settlers, after such performance had been decreed by the Court.

292

The Court erred in not holding that the joint resolution of Congress of April 30, 1908, authorized the enforcement of forfeiture for any breach of an assumed condition subsequent in either of said land grants, only in the event that specific performance of the covenants in said grants, requiring sales to settlers, could not be enforced.

293

The Court erred in not holding that the joint resolution of Congress of April 30, 1908, authorized a forfeiture of the legal title of the railroad company for breach of an assumed condition subsequent in either of said land grants, only as a means of carrying into effect the covenants in said grants requiring sales to settlers.

294

The Court erred in holding that at the time of the filing of the bill of complaint herein and ever since, and for a long time continuously next prior thereto, the Oregon and California Railroad Company, did not have possession of said grants or either of them.

295

The Court erred in not holding that at the time of filing of the bill of complaint herein, and ever since, and for a long time continuously next prior thereto, the Oregon and California Railroad Company had legal title and the possession of all lands of which forfeiture is sought by said bill of complaint.

296

The Court erred in holding that the United States, complainant herein, is the owner in fee simple or in possession of said lands or any part thereof or entitled

to said lands or entitled to the possession of the same or any part thereof, which are sought to be purchased by these interveners and cross-complainants or any of them.

297

The Court erred in holding that, as a foundation for a suit to quiet its title to either of said grants, or any part thereof, the complainant was in possession of the said grants, or either of them, or any part thereof; and in holding that the Oregon and California Railroad Company did not have the possession of the same.

298

The Court erred in holding as a foundation for a suit by complainant, to quiet its title to the said grants or either of them, or any part thereof, that the same had not been reduced to possession, and were unoccupied and vacant, and not in possession of said defendant, Oregon and California Railroad Company.

299

The Court erred in not holding that the United States, complainant herein, is not the owner in fee simple, nor in possession of said lands or any part thereof, nor entitled to said lands, nor entitled to the possession of the same or any part of the same, which are sought to be purchased by these interveners and cross-complainants or any of them.

300

The Court erred in holding that the complainant is the owner in fee simple, or in possession of said lands or any part thereof, or entitled to the possession of the same or any part thereof.

301

The Court erred in holding that as a foundation for a suit to quiet its title to either of said grants, or any part thereof, the said complainant had legal title to the same, or either of them, or any part thereof; and in holding that the defendant, Oregon and California Railroad Company did not have the legal title to such grants.

302

The Court erred in holding that the title of the United States of America, of or in said lands or estates in lands sought to be purchased by these interveners and cross-complainants or any of them, be or is by said decree, quieted and confirmed, particularly as to any claim or claims of right, title and interest in, to or upon the same, in favor of these interveners and cross-complainants or any of them.

303

The Court erred in holding that the lands and estates in lands in the said decree described, and which

were sought to be purchased by the interveners and cross-complainants herein or any of them, either in whole or in part, now are forfeited to, or that the title to or any part thereof, has reverted to and now is revested in the United States of America, or that the same or any part thereof, now are the absolute property of the United States of America, or are free from any and all claim or claims of right, title or interest or lien in, to or upon the same or any part thereof, by or in favor of these interveners and cross-complainants or any of them.

804

The Court erred in holding that the United States, complainant herein, was entitled to an injunction restraining the defendants or any of them, from conveying to these interveners and cross-complainants, any of the lands sought to be purchased by them respectively, upon the terms proposed by said interveners and cross-complainants, and upon the terms provided in the act of July 25, 1866 and the act of April 10, 1869, amendatory thereof.

805

The Court erred in not holding that the United States, complainant herein, was not entitled to an injunction restraining the defendants or any of them, from conveying to these interveners and cross-complainants any of the lands sought to be purchased by them respectively, upon the terms proposed by said

interveners and cross-complainants and upon the terms provided in the act of July 25, 1866, and the act of April 10, 1869, amendatory thereof.

306

The Court erred in holding that the United States, complainant herein, was entitled to an injunction restraining the defendants or any of them, from conveying to these interveners and cross-complainants, any of the lands sought to be purchased by them respectively, upon the terms proposed by said interveners and cross-complainants and upon the terms provided in the act of May 4, 1870.

307

The Court erred in not holding that the United States, complainant herein, was not entitled to an injunction restraining the defendants or any of them, from conveying to these interveners and cross-complainants, any of the lands sought to be purchased by them respectively, upon the terms proposed by said interveners and cross-complainants, and upon the terms provided in the act of May 4, 1870.

308

The Court erred in holding that the United States, complainant herein, was entitled to any injunctive relief whatever as against these interveners and cross-complainants or any of them.

309

The Court erred in holding that the United States, complainant herein, was entitled to a decree restraining these interveners and cross-complainants, or any of them, from claiming or asserting any right, title, interest or lien in, to or upon the lands sought to be purchased by these interventrs and cross-complainants, respectively.

310

The Court erred in not holding that the United States, complainant herein, was not entitled to a decree restraining these interveners and cross-complainants or any of them, from claiming or asserting any right, title or interest or lien in, to or upon the lands sought to be purchased by these interveners and cross-complainants, respectively.

311

The Court erred in holding that the title of complainant to the said lands, or any part thereof, should be quieted.

312

The Court erred in holding that the United States, complainant herein, was entitled to a decree quieting and confirming in it the title to the lands sought to be purchased by these interveners and cross-complainants, or any of them.

313

The Court erred in not holding that the United States, complainant herein, was not entitled to a decree quieting and confirming in it the title to the lands sought to be purchased by these interveners and cross-complainants, or any of them.

314

The Court erred in holding that the proviso in the amendatory act of April 10, 1869, was not a covenant, the acceptance and agreement to perform which was imposed by Congress as a condition precedent to the right of the Oregon and California Railroad Company to accept and become vested with the title to the lands under the grant of 1866.

315

The Court erred in holding that the word "provided" introducing the proviso contained in the amendatory act of April 10, 1869, imported a condition subsequent, as

(a) The word "provided" is as appropriate for the purpose of importing a condition precedent as a condition subsequent, and

(b) Said proviso is coupled with a clause in said act contained permitting the grantees to accept said grant one year after the passage of said amendatory act, and

(c) Said proviso is not coupled with and does not bear any relation to the granting clause in said act amended.

316

The Court erred in not holding that the proviso in the amendatory act of April 10, 1869, was and is a covenant, the acceptance and agreement to perform which was imposed by Congress as a condition precedent to the right of the railroad company to accept and become vested with the title to the lands under the grant of 1866.

317

The Court erred in refusing to direct and decree a specific performance on behalf of the United States, the complainant herein, and against the defendant, Oregon and California Railroad Company and the other defendants claiming by, through and under it, requiring said defendants to convey to these interveners and cross-complainants, the lands sought to be purchased by each respectively, upon payment of the purchase price therefor.

318

The Court erred in not holding that the defendant, Oregon and California Railroad Company and other defendants, claiming an interest in said land, be required to convey said land to the interveners and cross-complainants applying to purchase the same.

319

The Court erred in holding that the defendant, Oregon and California Railroad Company and each and all of the other defendants claiming an interest in said land, should not be required to convey said lands to the interveners and cross-complainants applying for the same.

320

The Court erred in holding that Congress did not intend by the act of April 10, 1869, to give to actual settlers the right to compel the railroad company to sell to them the lands embraced within the grant of July 25, 1866, according to the terms of the proviso in said act of April 10, 1869.

321

The Court erred in not holding that Congress intended, by the act of April 10, 1869, to give to actual settlers the right to compel the railroad company to sell to them the lands embraced within the grant of July 25, 1866, according to the terms of the proviso in said act of April 10, 1869.

322

The Court erred in holding that Congress did not intend by the act of May 4, 1870, to give to actual settlers the right to compel the railroad company to sell to them the lands embraced within the West Side land

grant, according to the terms of the provision in said act of May 4, 1870.

323

The Court erred in not holding that Congress intended, by the act of May 4, 1870, to give to actual settlers the right to compel the railroad company to sell to them the lands embraced within the West Side land grant, according to the terms of the provision in said act of May 4, 1870.

324

The Court erred in refusing to direct and decree a specific performance on behalf of the interveners and cross-complainants and each of them, against the defendant, Oregon and California Railroad Company, and the other defendants claiming by, through and under it, requiring said defendants to convey to these interveners and cross-complainants, the lands sought to be purchased by said interveners and cross-complainants, respectively, as prayed for in their several bills.

325

The Court erred in holding that the provisions in each and both of said grants did not constitute contracts entered into by and between the Government and the railroad company, for the benefit of and enforcible by the interveners and cross-complainants.

326

The Court erred in holding that the proviso in the amendatory act of April 10, 1869, requiring sales to settlers, was not a covenant to a use and did not impress a trust upon said lands for the benefit of those, who in good faith should apply to make settlement upon said land, and to purchase the same in quantities and at prices provided by said amendatory act.

327

The Court erred in not holding that the proviso in the amendatory act of April 10, 1869, requiring sales to settlers, was a covenant to a use and impressed a trust upon said lands for the benefit of those, who in good faith should apply to make settlement upon said land and to purchase the same in quantities and at prices provided by said amendatory act.

328

The Court erred in holding that the provision in the act of May 4, 1870, relating to sale of land to actual settlers, was not a covenant to a use and did not impress a trust upon said lands for the benefit of those who in good faith should apply to make settlement upon said land and to purchase the same in quantities and at prices provided by said act.

329

The Court erred in not holding that the provision in the act of May 4, 1870, relating to sale of lands to actual settlers, was a covenant to a use and impressed a trust upon said lands for the benefit of those who in good faith should apply to make settlement upon said land and to purchase the same in quantities and at prices provided in said act.

330

The Court erred in holding that the railroad company was not constituted a trustee for the benefit of the interveners and cross-complainants as sestui que trustent, under the provisions requiring sales of lands to settlers, referred to, in that

(a) "The nature and quality of their interests are not specific and definite," and, in that

(b) "They are not susceptible of identification as such," and,

331

The Court erred in not holding that the railroad company, by the provisions in said grants contained, was constituted a trustee for the benefit of the interveners and cross-complainants as sestui que trustent, as

(a) The nature and quality of said interests under said grants are sufficiently specific and definite, and

(b) Their application to purchase and offer to settle upon the lands, is a sufficient identification.

332

The Court erred in holding that the offer and tender by the interveners and cross-complainants, to purchase the lands sought by them to be purchased of and from the Oregon and California Railroad Company, did not give to the respective interveners and cross-complainants a vested interest in said lands, in default of an acceptance of such offers and conveyances of said lands by the Oregon and California Railroad Company.

333

The Court erred in not holding that the offer and tender by the interveners and cross-complainants, to purchase the lands sought by them to be purchased of and from the Oregon and California Railroad Company, gave to the respective interveners and cross-complainants, a vested interest in said lands, in default of an acceptance of such offers and conveyances, by the Oregon and California Railroad Company.

334

The Court erred in holding that the proviso in the act of April 10, 1869, is not sufficiently definite and certain to be enforced as a covenant to a use or as a trust.

335

The Court erred in not holding that the proviso in

the act of April 10, 1869, is sufficiently definite and certain to be enforced as a covenant to a use or as a trust.

336

The Court erred in holding that the proviso in the act of April 10, 1869, requiring sales to settlers, is sufficiently definite and certain as a condition subsequent, to entitle the Government to a forfeiture for its breach, and that it is not sufficiently definite and certain to be specifically enforced as a covenant to a use, or a a covenant creating a trust.

337

The Court erred in not holding that the proviso in the act of April 10, 1869, for the sale of lands to actual settlers was intended by Congress as and was and is a covenant to a use only, and not a condition subsequent, as

(a) Said proviso contains specific and direct commands which were assented to, and performance thereof promised, by the Oregon and California Railroad Company, and

(b) Said proviso does not contain any clause providing for forfeiture or re-entry for breach of such covenant, and

(c) Said contract devotes said land to settlement and tillage and ultimate ownership by settlers.

338

The Court erred in holding that the proviso in the act of April 10, 1869, was not a covenant to a use, impressed upon and running with the title to the land, until the title should have ultimately become vested in an actual settler, upon the terms and under the conditions provided in said grant.

339

The Court erred in not holding that the proviso in the act of April 10, 1869, was a covenant to a use, impressed upon and running with the title to the land, until the title should have ultimately become vested in an actual settler, upon the terms and under the conditions provided in said grant.

340

The Court erred in holding that the United States, complainant herein, had any right, title or interest in or to the land embraced within and covered by the East Side grant, or any part thereof, except as a settler of the trust in said lands.

341

The Court erred in holding that the provision in the act of May 4, 1870, is not sufficiently definite and certain to be enforced as a covenant to a use or as a trust.

342

The Court erred in not holding that the provisions in the act of May 4, 1870, is sufficiently definite and certain to be enforced as a covenant to a use or as a trust.

343

The Court erred in holding that the provisions in the act of May 4, 1870, requiring sales to settlers, is sufficiently definite and certain as a condition subsequent, to entitle the Government to a forfeiture for its breach, and that it is not sufficiently definite and certain to be specifically enforced as a covenant to a use, or as a covenant creating a trust.

344

The Court erred in not holding that the provisions in the act of May 4, 1870, requiring sales to settlers, was intended by Congress as and was and is a covenant to a use only and not a condition subsequent, as

(a) Said provision contains specific and direct commands which were assented to and agreed to and performance thereof promised by the Railroad company, and

(b) Said provision does not contain any clause providing for forfeiture or re-entry for breach of such covenant, and

(c) Said contract devotes said land to settlement and tillage and ultimate ownership by settlers.

345

The Court erred in holding that the provisions in the act of May 4, 1870, was not a covenant to a use, impressed upon and running with the title to the land, until the title should have ultimately become vested in an actual settler, upon the terms and under the conditions provided in said grant.

346

The Court erred in not holding that the provision in the act of May 4, 1870, was a covenant to a use, impressed upon and running with the title to the land, until the title should have ultimately become vested in an actual settler, upon the terms and under the conditions provided in said grant.

347

The Court erred in holding that the United States, complainant herein, had any right, title or interest in or to the land embraced within and covered by the West Side grant, or any part thereof, except as a settler of the trust in said lands.

348

The Court erred in holding that the United States,

complainant herein, had any right, title or interest in a
to the lands embraced within the East Side land gra
or any part thereof, which it could enforce in this actio
except such rights as it has as a settler of the trust
said lands, to enforce the provision of said trust, a
such rights as it had and has to carry into effect in sa
suit, its public policies with relation to its granted land
and

349

The Court erred in holding that the United State
complainant herein, had any right, title or interest in a
to the lands embraced within the West Side land gra
or any part thereof, which it could enforce in this actio
except such rights as it had or has as a settler of the tru
in said lands to enforce the provisions of said trust, a
such rights as it had and has to carry into effect in sa
suit, its public policies with relation to its granted land
and

350

The Court erred in not holding that this suit can on
be maintained by complainant as one to compel the sp
cific performance of a trust covenant, or to enforce
public policy, as

(a) Neither of said land grants contains a provi
ion importing a condition subsequent, upon the brea
of which forfeiture could be had, and

(b) Congress has never declared a forfeiture
either of said land grants for breach of any conditi

subsequent, assuming that there is such condition in either of said land grants, and

(c) The fact of forfeiture has never been adjudicated by a court of law, and

(d) The defendant, Oregon and California Railroad Company holds the legal title to and possession of said lands, and

(e) Complainant having asked for forfeiture and in the alternative for specific performance, this suit cannot be maintained for forfeiture, since equitable relief may be granted by specific performance, and

(f) In view of specific performance a decree quieting title in the Government, cannot be had.

351

The Court erred in not holding, on the assumption that the said proviso in the act of April 10, 1869, is a condition subsequent, for breach of which forfeiture might be had, that complainant elected, by filing its suit in equity, to waive forfeiture, and elected to specifically enforce said proviso as a covenant to a use only.

352

The Court erred in not holding, on the assumption that the said provision in the act of May 4, 1870, is a condition subsequent, for breach of which forfeiture might be had, that complainant elected, by filing its suit

in equity, to waive forfeiture, and elected to specifically enforce said provision.

353

The Court erred in holding that the interveners and cross-complainants were not such actual settlers as were contemplated by the acts of April 10, 1869, and May 4, 1870.

354

The Court erred in holding that these interveners and cross-complainants did not have vested interests in the lands sought to be purchased by them and each of them respectively, by reason of their various offers and tenders to purchase said lands upon the terms provided in the acts of April 10, 1869, and May 4, 1870.

355

The Court erred in holding that the evidence in this cause was sufficient to entitle complainant to the decree rendered herein.

356

The Court erred in not holding that the evidence in this cause was insufficient to support or sustain the decree rendered.

357

The Court erred in holding that the evidence adduced in support of the complaint of the United States, complainant herein, was sufficient to entitle complainant to

a forfeiture of the title to the lands sought to be purchased by these interveners and cross-complainants or any of them.

358

The Court erred in not holding that the evidence adduced in support of the complaint of the United States, complainant herein, was not sufficient to entitle complainant to a forfeiture of the title to the lands sought to be purchased by these interveners and cross-complainants or any of them.

359

The Court erred in holding that the United States, complainant herein, was entitled to recover its costs and disbursements herein, or any costs or disbursements herein, against these interveners and cross-complainants, or any of them, and that a decree should be entered to that effect.

WHEREFORE, these interveners and cross-complainants, jointly and severally, pray that the said several judgments and orders and each of them and the said decision, judgment and decree and each and every part thereof, be reversed, and that this Court enter a decree on behalf of these interveners and cross-complainants as prayed for by them and each of them, respectively, in their several bills of intervention and cross-complaints heretofore filed herein,

And for such other, further or different relief as to this Court may seem just and equitable in the premises.

MOULTON & SCHWARTZ,

LEWIS C. GARRIGUS,

Socilitors and Attorneys for said defendants cross complainants, John H. Haggett, Charles W. Mead, William Otterstrom, Angus MacDonald, John T. Moan, Joseph D. Hadley, Henry C. Ott, Fred L. Freebing, William Cain, R. T. Aldrich, and O. V. Hickman.

A. C. WOODCOCK,

E. L. C. FARRIN,

DAN R. MURPHY,

Solicitors and Attorneys for said interveners William F. Slaughter and each and all of the persons whose names are specifically set forth in the above title to this cause, com-

mencing with and including the said William F. Slaughter, down to and including Arthur Persinger, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 24th day of September, 1908.

L. G. ENGLISH,

Solicitors and Attorneys for the said interveners Edward D. Townsend, Louis G. English, Ralph W. Core and Edgar O. Holladay.

A. W. LAFFERTY,

Solicitors and Attorneys for the said interveners John Burbee, Marion Smith, Charles Burbee, Oscar H. Sherman and Charles Wiest.

A. W. LAFFERTY,

Solicitors and Attorneys for the said interveners Milo F. Dennis and Leopold H. Deitz.

SHEPARD &

BURKHEIMER,

Successors to

SHEPARD & FLETT;

JOHN E. BURKHEIMER,

CHARLES E. SHEPARD,

C. I. LEAVENGOOD,

Solicitors and Attorneys for the said interveners Frank Terrace and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Frank Terrace, down to and including John Zoffi, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 2nd day of December, 1908.

LEROY LOMAX,

Of Solicitors and Attorneys for the said interveners Charles J. Vanzile and each and all of the persons whose names are speci-

fically set forth in the above title to this cause, commencing with and including the said Charles J. Vanzile, down to and including E. R. Seeley, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 23rd day of December, 1908.

MOULTON & SCHWARTZ,

LEWIS C. GARRIGUS,

Solicitors and Attorneys for the said intervener Luther E. Trowbridge.

A. C. WOODCOCK,

GEO. W. WRIGHT,

Solicitors and Attorneys for the said interveners George W. Wright, William W. Bailey, Willetta Wright, W. H. Queener, Eulah Wright and Joseph E. Wright.

DAY & BREWER,

JNO. MILLS DAY,

Solicitors and Attorneys for the said interveners Elmer L. Hancock and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Elmer L. Hancock, down to and including Lucius P. Ranous, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 8th day of February, 1909.

OGLESBY YOUNG,

LEWIS C. GARRIGUS,

Solicitors and Attorneys for the said interveners Robert Aistrop, Herb Palmer, Clara L. Palmer, Tina Palmer, P. L. Palmer, Walter Anderson, Lewis Johanson, Edwin Rice, W. C. Rhude and Frank A. Durrah.

LEWIS C. GARRIGUS,

Solicitors and Attorneys for the said interveners B. W. Nunnally, William Weist, John Weist, Francis Weist, Geo. E. Walling, W. D. Sappington, Edward E. Stucker and O. N. Cranor.

G. G. SCHMITT,

GRIDLEY, CULVER

& KIND,

PAUL C. L'AMOREAUX,

Solicitors and Attorneys for the said interveners Paul C. L'Amoreaux, Albert E. Barkman, Clyde M. Adair, Carrie M.

Wicker, Julia S. Skilton, Edward H. White, Olive Maguire, Coleman S. Everett, Isadore Whiteson, Harry Hamill, John C. Hamill, Julia R. Fox, Henry W. McFarlane, Fred G. Merrill, Edward Robertson Abbot, Manning D. L'Amoreaux, Agnes G. Stewart, Ida M. Pahlman and Rose L'Amoreaux.

B. W. COINER,

JNO. MILLS DAY,

Solicitors and Attorneys for the said interveners John F. Fowler, and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said John F. Fowler, down to and including Minnette Johnson, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 1st day of March, 1909.

L. D. MAHONE,

Solicitors and Attorneys for the said interveners L. C. Keylon, E. E. Keylon, C. S.

Staats, E. J. Staats, Rodney C. White, Ida A. White, Grant Nixon, Adolphus Gaunt, and Anton Carlson.

DAY & BREWER,

JNO. MILLS DAY,

Solicitors and Attorneys for the said interveners R. E. Cameron and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said R. E. Cameron, down to and including John A. Miller, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 1st day of March, 1909.

SETON & STRAHAN,

CLAUDE STRAHAN,

LEWIS C. GARRIGUS,

Solicitors and Attorneys for the said interveners Charles W. Varnum, Elizabeth M. Edwards, Thomas F. Hartzel, Madge Bartholomew, Daisy Lebo, Mary E. Black, Arthur J. Pate, Flora E. King, Howard

S. Robertson, W. E. Bowdon, Frank B. Mauzer, F. H. Southerland, M. B. Carpenter, H. E. Gould, J. N. Husted, Magdalene Haycox, Samuel Haycox, Louise Rommel, R. W. Edwards, Robert James, Clare M. James, Albert Trego, Leta G. Trego, Harry Hurlbut, Hally E. Hurlbut, Charles E. Pate, Benjamin Bowles, Jesse Bowles, Peter J. Oleson, Frances R. Hopper, Miller E. Preston, Willis G. Mudd, A. C. Spencer, Martin Herbert Kennedy, Dell Dickson, Chauncey Thomas, Frank B. Manzer and Adeline James.

LEROY LOMAX,

Of Solicitors and Attorneys for the said interveners Nicholas Herrman, Robert Kruse, George W. Sepham, F. E. Gige, Emma Case, Celia Zaugg, George F. Brooks, Harriett Poll, Mary S. Blair, Jay Tice, Frank E. Poll, R. E. Andrews, John Subert, F. K. Kamp, James McHugh, C. B. Hurby, J. E. Ketcham, G. A. Huntzicher, August Matz, Maud Stewart, Fred C. Lundy, Charles F. Barnes, F. A. Hildebrand, Henry A. Balles, J. P. Tiffault, Fred Bustrin, H. M. Bustrin, Byron G. Hall, William O. Hall, Charles E. Lennan,

Hortence B. Lennan, P. G. Larson, William Hoeck and Henry Hoeck.

PARIS MARTIN,

JNO. MILLS DAY,

Solicitors and Attorneys for the said interveners Edwin F. Anderson and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Edwin F. Anderson, down to and including Montello Gray, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 12th day of May, 1909.

LEWIS C. GARRIGUS,

EUGENE BLAND,

Solicitors and Attorneys for the said interveners Fred J. Gould and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Fred J. Gould, down to and including E. G. Bentley, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 28th day of July, 1909.

PETER J. DANHOFF, and

H. M. ESTERLY,

Solicitors and Attorneys for the said interveners Abram B. Horner and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Abram B. Horner, down to and including William Thwaites, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 15th day of December, 1909.

LEWIS C. GARRIGUS,

EUGENE BLAND,

Solicitors and Attorneys for the said interveners George B. Bothwell and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said George B. Bothwell, down to and including Leota Travers, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 6th day of October, 1909.

PETER J. DANHOFF, and

H. M. ESTERLY,

Solicitors and Attorneys for the said interveners, Hervey L. Keyes, Chester H. Thornson, Chester H. Thomson, Lyn S. Carter, Byron D. West, George W. Jackson, Laura E. Singer, Alba L. Holmes, Harold R. Nye, Miles B. Campbell, James A. Roxburgh, James A. Rosburgh, Walter J. Hills, Leo A. Caro, Homer F. Van Drezer, Christopher M. Kelly, Samuel B. Ardis, Charles H. Winchester, Charles B. Winchester, Charles J. Kindel, Albert Vandenberg, Anna H. Tromper, Anna H. Trompen, John N. Tromper, John N. Trompen, Joe Van Arondonk, Ira Lubbers, Reimer Van Soest, E. J. Hyink, Henry Strakes, Cornelius Schaap, Elbert S. Schilstra, Henry K. Boer, John De Haan, William Bommelje, Benjamin Hoffman, Peter Bogema, John Bosker, Jacob P. Bosker, Edward C. Smith, John W. Huenink, John H. Huenink, Bertha Moe Seaver, and Elmer H. Ruslink.

LEWIS C. GARRIGUS,

EUGENE BLAND,

Solicitors and Attorneys for the said inter-

veners Marvin P. Alford and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Marvin P. Alford, down to and including Donald C. Barber, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 14th day of February, 1910.

H. G. LAKE,

LEWIS C. GARRIGUS,

Solicitors and Attorneys for the said interveners Albert Bozarth and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Albert Bozarth, down to and including Retta E. Bishard, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 15th day of March, 1910.

A copy of the above and foregoing assignments of error received and due service thereof admitted this 8th day of November, A. D. 1913.

Jas. C. McReynolds,
Attorney General U. S.

B. D. Townsend,
Special Assistant to Attorney General.

By Fred Rabb,
Special Assistant to Attorney General.

Clarence L. Reames,
United States Attorney,

By Robert R. Rankin,
Assistant United States Attorney.

Solicitors and Attorneys for the Complainant, The United States of America.

Wm. D. Fenton,

P. F. Dunne

Wm. F. Herrin,

Solicitors and Attorneys for the Defendants Oregon and California Railroad Company, Southern Pacific Company, and Stephen T. Gage, Individually and as Trustee.

Jno. M. Gearin,

Solicitor and Attorney for the Defendant Union Trust Company of New York, Individually and as Trustee

A. W. Lafferty,

Solicitor and Attorney for the Defendants-Cross-Complainants John L. Snyder and the others with him joined.

A. W. Lafferty,

Solicitor and Attorney for the Defendants-Cross-Complainants Sidney Ben Smith and the others with him joined.

A. W. Lafferty,

Solicitor and Attorney for the Interveners Arthur L. Golder, George W. Trefren and Lewis J. Trefren.

A. W. Lafferty,

Solicitor and Attorney for the Interveners William E. Carter, Frank Carter and William H. Prentice.

A. W. Lafferty,

Solicitor and Attorney for the Interveners William McLeod and the other Interveners with him joined.

(Endorsed) Filed November 11, 1918, A. M. Cannon, Clerk United States District Court, By G. H. Marsh, Deputy.

(TITLE).

And that thereafter, on November 17, 1918, there was duly filed in said court the Bond on Separate Appeal of John L. Snyder and others, defendants-cross-complainants, and William F. Slaughter and others, interveners, in words and figures as follows, to-wit:

[TITLE]

BOND ON APPEAL.

KNOW ALL MEN BY THESE PRESENTS: that

JOHN L. SNYDER, Julius F. Prahl, Albert E. Thompson, James Barr, Fred Witte, W. A. Anderson, W. H. Anderson, O. M. Anderson, F. E. Williams, Paul Birkenfeld, J. H. Lewis, Frances S. Wiser, W. E. Anderson, Albert Arms, Joseph A. Maxwell, Isaac McKay, J. R. Peterson, D. MacLafferty, Edgar MacLafferty, V. V. McAboy, George C. MacLafferty, George Edgar MacLafferty, E. L. MacLafferty, B. N. MacLafferty, Enos M. Fluhrer, F. W. Floeter, and S. Shryock, defendants, cross-complainants in the above entitled cause, and

SIDNEY BEN SMITH, Orrin J. Lawrence, Robert G. Balderree, Oscar E. Smith, Egbert C. Lake, C. W. Sloat, Jesse F. Holbrook, A. E. Haudenschield, S. H. Montgomery, W. A. Noland, James C. O'Neil, Alexander Fauske, Francis Wiest, Cordelia Michael,

John B. Wiest, Cyrus Wiest, John Wiest, Thomas Manley Hill, Otto Nelson, Jasper L. Hewitt, B. L. Porter, Frank Wells, C. P. Wells, I. H. Ingram, L. G. Reeves, W. W. Wells, F. M. Rhoades, Roy W. Minkler, and Marvin Martin, defendants, cross-complainants in the above entitled cause, and

JOHN H. HAGGETT, Charles W. Mead, William Otterstrom, Angus MacDonald, John T. Moan, Joseph D. Hadley, Henry C. Ott, Fred L. Freebing, William Cain, R. T. Aldrich, and O. V. Hickman, defendants, cross-complainants in the above entitled cause; and

WILLIAM F. SLAUGHTER, and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said William F. Slaughter, down to and including Arthur Persinger, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause, on the 24th day of September, 1908, and who are too numerous to specifically name again herein, interveners in the above entitled cause; and

EDWARD D. TOWNSEND, Louis G. English, Ralph W. Core, and Edgar C. Holladay, interveners in the above entitled cause; and

JOHN BURBEE, Marion Smith, Charles Burbee, Oscar H. Sherman, and Charles Wiest, interveners in the above entitled cause; and

MILO F. DENNIS, and Leopold H. Dietz, interveners in the above entitled cause; and

FRANK TERRACE, and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Frank Terrace, down to and including John Zoffi, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 2nd day of December, 1908, and who are too numerous to specifically name again herein, interveners in the above entitled cause; and

CHARLES J. VANZILE, and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Charles J. Vanzile, down to and including E. R. Seeley, being all of the persons who, by leave of court, filed their joint complaint in the intervention in this cause on the 23rd day of December, 1908, and who are too numerous to specifically name again herein, interveners in the above entitled cause; and

LUTHER E. TROWBRIDGE, intervener in the above entitled cause; and

GEO. W. WRIGHT, William W. Bailey, Willetta Wright, W. H. Queener, Eulah Wright, and Joseph E. Wright, interveners in the above entitled cause; and
WILLIAM E. CARTER, Frank Carter, and Wil-

liam H. Prentice, interveners in the above entitled cause; and

ARTHUR L. GOLDER, George W. Trefren and Lewis J. Trefern, interveners in the above entitled cause; and

ELMER L. HANCOCK, and each and all of the persons whose names are specifically set forth in the above title to this cause; commencing with and including the said Elmer L. Hancock, down to and including Lucius P. Ranous, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause, on the 8th day of February, 1909, and who are too numerous to specifically name again herein, interveners in the above entitled cause; and

ROBERT AISTROP, Herb Palmer, Clara L. Palmer, Tina Palmer, P. L. Palmer, Walter Anderson, Lewis Johanson, Edwin Rice, W. C. Rhude, and Frank A. Durrah, interveners in the above entitled cause; and

WILLIAM McLEOD, Charles O. Anderson, John B. McLeod, John L. Morgan, A. N. Sarjent, J. W. Sarjent, Fred A. Sarjent, Travis Martin, J. W. McDonald, E. J. Pearl, Robert C. Martin, Susan Martin, Gertie Martin, Susie Martin, B. S. Martin, S. L. Overton, L. Overton, H. A. Foley, D. O. Cross, and R. C. Foley, interveners in the above entitled cause; and

B. W. NUNNALLY, William Weist, John Weist, Francis Weist, Geo. E. Walling, W. D. Sappington,

Edward E. Stucker, and O. N. Cranor, interveners in the above entitled cause; and

PAUL C. L'AMOREAUX, Albert E. Barkman, Clyde M. Adair, Carrie M. Wicker, Julia S. Skilton, Edward H. White, Olive Maguire, Coleman S. Everett, Isadore Whiteson, Harry Hamill, John C. Hamill, Julia R. Fox, Henry W. McFarlane, Fred G. Merrill, Edward Robertson Abbot, Manning D. L'Amoreaux, Agnes G. Stewart, Ida M. Pahlman, and Rose L'Amoreaux, interveners in the above entitled cause; and

JOHN F. FOWLER, Fred B. Hussey, L. L. Scott, Eliza Scott, Geo. W. Scott, L. D. Beary, Glen W. Armour, W. J. Sweet, T. J. McMullen, Geo. S. Lindsey, L. F. Jones, A. Noble, H. N. Noble, H. C. Jones, A. A. Noble, Bertha V. Scott, Gertrude J. McMullen, Emeline S. Phelps, Jas. K. Phelps, Margaret B. Hallowell, C. W. Chapman, Orlando S. Phelps, Robert D. Shutt, Thos. J. Lillis, J. L. Wadsworth, Jessie P. Coffin, Vestel P. Coffin, R. W. Purdum, Lena A. Ingram, H. L. Ingram, Belle Peck, Floy McLeod, Sara Ingram, E. H. McKibbon, J. C. Perry, M. LeRoy White, Minnie M. Halliday, Margaret White, A. LaMare, J. J. Kobetich, John Alderson, Chris Knudsen, S. T. Farr, Chas. Carlyle, Clyde A. Gates, Henry Olmstead, B. Lindahl, Wm. O. Foote, Geo. Schlosser, John R. Read, A. O. Nelson, O. Erickson, T. L. Draper, Frank L. Draper, John Adamson, Leonard Anderson, A. M.

Frankfurt, M. S. Langdon, John Olson, John Hedberg, Jas. DeRose, J. Frank LaRoe, Fanny M. LaRoe, Albert O. Skotterud, C. Wallgren, Emma C. Phelps, Arthur L. Dewey, H. H. Keith, C. Tuttle, H. A. Fisher, Lena M. Storla A. Johnson, Cora E. Ferrel, Van R. Ferrel, Thos. C. Coffin, Geo. Harrison, Fred C. Smith, Walter Hatcher, O. W. Peterson, John Forsberg, Dan'l M. Smith, S. J. Morris, I. J. Edwards, Andrew Lindstrom, A. A. Johnson, I. Carpenter, T. A. McCormick, John C. Farley, John Fitzgerald, Wm. H. French, Geo. L. Scarlett, Michael Fitzgerald, Nils P. Lindgren, Hokan Lundgren, Emma E. Lundgren, Anna E. Lundgren, E. R. Redlich, Ida S. Bell, Milton S. Parrott, John Smedlund, F. E. French, Mary E. Wadsworth, Oscar Sandstrom, Frances A. Short, Albert F. Reed, Lewis E. Handley, William F. Hallowell, Beverly W. Coiner, Anna Arickson, M. H. Woolsey, Sr., E. G. Wollum, Annie Lemon, Martha J. Chapman, Robert Carlson, and Minette Johnson, interveners in the above entitled cause; and

L. C. KEYLON, E. E. Keylon, C. S. Staats, E. J. Staats, Rodney C. White, Ida A. White, Grant Nixon, Adolphs Gaunt, and Anton Carlson, interveners in the above entitled cause; and

R. E. CAMERON, Everett B. Coffin, Ansel B. Hill, Arthur D. Bird, Elizabeth Robinson, W. J. H. Best, Frank J. Clements, Peter H. Ludwig, Hugh Mair, Anna M. Chase, D. H. Smith, Sarah J. Smith, Mary E.

Ludwig, W. J. Hodder, W. B. Heffron, E. E. Christman, James E. Phillips, D. J. O'Connor, Thomas R. Williams, Zula D. Bird, William E. Donohue, James S. Chase, P. T. O'Connor, J. W. Braman, Julius J. Gregat, D. D. Whitcomb, L. F. Hatter, Gertrude Mae Schneider, Marcellus L. Whitcomb, Gilbert Thorson, Fred Schneider, Jas. W. Curtis, Virgil W. Creech, Bertha Josephine Howe, James L. Hoadley, James O'Sullivan, Essie P. Mitchell, J. Y. Mitchell, Albert F. Hopstein, R. H. Holbrook, Edgar H. Blair, R. H. Wilhermsdorfer, Wm. H. Finck, J. T. Hatter, Wm. Curtis, J. A. Schoenberger, Kity V. Hogan, W. H. Hogan, Aaron L. Beers, John C. Kech, Estella A. Beers, Libbie D. Hagler, H. W. McFate, Henry R. Hale, Vincent J. Dermott, John M. Jackson, Andrew M. Thomas, B. Calling, Robert Dudgeon, Mabell F. May, Walter May, Lewis C. Hall, H. A. French, Henry C. Hill, C. C. Cease, Felix A. Rogers, Herman Meyer, Ray McFee, Mary A. Day, Anna E. Loupman, Francis O. Whealon, Bertha May Carr, John Mogus, Chester Kirkpatrick, Chas. Skuhra, F. E. Hammond, D. C. Hall, E. M. Bronilette, M. A. Sprague, J. F. Treen, J. E. Amling, Jennie Rosencrans, Dorotha C. Kech, Preston H. Carr, and John H. Miller, interveners in the above entitled cause; and

CHARLES W. VARNUM, Elizabeth M. Edwards, Thomas F. Hartzel, Madge Bartholomew, Daisy Leabo, Mary E. Black, Arthur J. Plate, Flora E. King, Howard S. Robertson, W. E. Bowden, Frank B. Manzer,

Frank B. Mauzer, F. H. Southerland, M. B. Carpenter, H. E. Gould, J. N. Husted, Magdalene Haycox, Samuel Haycox, Louise Rommel, R. W. Edwards, Robert James, Clare M. James, Albert Trego, Leta G. Trego, Harry Hurlbut, Hally E. Hurlbut, Charles E. Pate, Benjamin Bowles, Jesse Bowles, Peter J. Oleson, Frances R. Hopper, Miller E. Preston, Willis G. Mudd, Chauncy Thomas, and Adeline James, interveners in the above entitled cause; and

NICHOLAS HERRMAN, Robert Kruse, George W. Sepham, F. E. Gige, Emma Case, Celia Zaugg, George F. Brooks, Harriett Poll, Mary S. Blair, Jay Tice, Frank E. Poll, R. E. Andrews, John Subert, F. K. Kamp, James McHugh, C. B. Hurby, J. E. Ketchum, G. A. Hutzicher, August Matz, Maud Stewart, Fred C. Lundy, Charles F. Barnes, F. A. Hildebrand, A. C. Spencer, Martin Herbert Kennedy, Dell Dickson, Henry A. Balles, J. P. Tiffault, Fred Bustrin, H. M. Bustrin, Byron G. Hall, William O. Hall, Charles E. Lennan, Hortence B. Lennan, P. G. Larson, William Hoeck, and Henry Hoeck, interveners in the above entitled cause; and

EDWIN F. ANDERSON, Emma K. Barr, Mabel A. Barr, John Boeck, Wardel Boeck, G. V. Booth, Anna B. Booth, Joseph W. Brady, William A. Boze, Eric Q. Brainard, John Charles Brodie, George Brunt, J. R. Buck, George A. Buck, Thomas Butler, F. M. Bybee, Herbert W. Calkins, Ben W. Calkins, N. W. Calkins,

Nellie B. Calkins, Etta S. Clear, M. H. Coffin, Edna Coffin, Mark Coffin, Mary A. Coffin, Elza Davis, George J. Davis, Thea Falk, John C. Filer, Mary G. Filer, Frank C. Irons, Jacob H. Keefer, R. D. Leach, Lillian E. Leach, Andrew C. Leach, Amelia Lind, M. E. Longfellow, W. L. McCaslin, Ira L. Macomber, Harry J. Marcus, Elias D. Marquand, D. G. Martin, Helen Martin, Frank J. Miller, George Miller, George W. Mills, Fred Mosely, Althea Munroe, Orr W. Noble, William S. Northrup, David R. Page, C. M. Paxton, Helen A. Payne, Alice J. Pelot, Henry Rasmussen, Elmer Rasmussen, Irene K. Rodgers, Napoleon B. Rodgers, William D. Rogers, Frank O. Schramm, A. J. Seckner, Gertrude Seckner, George E. Smith, Dallas W. Spangler, D. W. Stainbrook, Anna Steensland, Frank R. Storm, Norbert H. Storm, L. B. Taylor, Joseph Thompson, C. H. West, J. Ernest White, Daniel A. Wisecup, W. W. Calkins, Etta S. Clarr, Marg G. Filer, Guy E. Winzer, and Montello Gray, interveners in the above entitled cause; and

FRED J. GOULD, Beverly B. Deems, George Daniel, W. H. Harris, John D. Sullivan, Daniel S. Green, Adolph O. Keller, Peter Haupt, Lillian M. Hanley, Tobias S. Miller, Ezra H. Stafford, Peter T. Barrett, William A. McAtee, Joseph V. Barrett, George B. Reynolds, Massey Wilson, Henry Schurmann, Edwin B. Schurman, Adolph G. Enderly, Flora A. Branstetter, William D. Burhans, Jacob J. Koenigsmark, Florence E. Stafford, Fannie A. Stafford, Edwin M. Stafford,

Justus H. Hohl, Louis J. Bechtold, John C. Greulich, A. M. Scheel, Effie Grace Sumney, Herman C. Kralemann, J. W. Vandolah, Ward D. Flinn, Joseph A. Stewart, C. W. Cooper, Hoxie Cooper, Roxie Cooper, Flora Beardsley, Raymond M. Beardley, James A. Owens, Clinton S. Braden, S. M. Braden, Sears Lehman, Garfield J. Tansing, L. G. Davis, Robert J. Hood, Robert Rives, J. B. Leemon, Helen H. Dearborn, W. B. Dearborn, W. E. Dearborn, David O'Neal, Leonard P. Lockwood, George K. Boyd, Frank J. Smith, Estella J. Smith, John D. LaCroix, Benjamin F. Wheeler, F. A. Gooch, Mrs. M. O. Woodruff, Charles P. Howland, James Lacy, A. L. Gibbs, Paul Vinyard, William H. Lockwood, Allen W. Thomas, and E. G. Bentley, interveners in the above entitled cause; and

ABRAM B. HORNER, and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Abraham B. Horner, down to and including William Thwaites, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause, on the 15th day of December, 1909, and who are too numerous to specifically name again herein, interveners in the above entitled cause; and

GEORGE B. BOTHWELL, and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said George B. Bothwell, down to and including Leota Travers, being all of the persons who, by leave of

court, filed their joint complaint in intervention in this cause, on the 6th day of October, 1909, and who are too numerous to specifically name again herein, interveners in the above entitled cause; and

HERVEY L. KEYES, Chester H. Thornson, Chester H. Thomson, Lynn S. Carter, Byron D. West, George W. Jackson, Laura E. Singer, Alba L. Holmes, Harold R. Nye, Miles B. Campbell, James A. Roxburgh, James A. Rosburgh, Walter J. Hills, Leo A. Caro, Homer F. Van Drezer, Christopher M. Kelly, Samuel B. Ardis, Charles H. Winchester, Charles B. Winchester, Charles J. Kindel, Albert Vandenberg, Anna H. Tromper, Anna H. Trompen, John N. Tromper, John N. Trompen, Joe Van Arendonk, Ira Lubbers, Reinier Van Soest, E. J. Hyink, Henry Strakes, Cornelius Schaap, Elbert S. Schilstra, Henry K. Boer, John De Haan, William Bommelje, Benjamin Hoffman, Peter Bogema, John Bosker, Jacob P. Bosker, Edward C. Smith, John W. Huenink, John H. Heunink, Bertha Moe Seaver, and Elmer H. Ruslink, interveners in the above entitled cause; and

MARVIN P. ALFORD, and each and all of the persons whose names are specifically set forth in the above title to this couse, commencing with and including the said Marvin P. Alford, down to and including Donald C. Barber, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause, on the 14th day of February, 1910, and

who are too numerous to specifically name again herein, interveners in the above entitled cause; and

ALBERT BOZARTH, and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Albert Bozarth, down to and including Retta E. Bishard, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause, on the 15th day of March, 1910, and who are too numerouse to specifically name again herein, interveners in the above entitled cause, as principals, and THE AETNA ACCIDENT AND LIABILITY COMPANY, of Hartford, Connecticut, as sureties, acknowledge themselves to be jointly indebted to the United States of America, complainant, and Oregon and California Railroad Company, Southern Pacific Company, Stephen T. Gage, individually and as trustee, and Union Trust Company, individually and as trustee, defendants appellees in the above cause in the sum of Five Hundred Dollars.

Dated this 15th day of November, A. D. 1918.

The condition of this obligation is such, that

WHEREAS, on the first day of July, A. D. 1918, in the above and foregoing entitled cause, in the above and foregoing entitled court, various judgments, and orders of dismissal were entered in favor of the complainant, against the various groups of cross-complain-

ants and interveners herein and on the same day a judgment and decree was rendered in favor of the complainant and against all of the above named defendants and also against all of the above named cross-complainants and interveners, and

WHEREAS, all of the above named cross-complainants and interveners who are named as principals herein, having obtained an appeal to the United States Circuit Court of Appeals and having filed a copy thereof in the office of the Clerk of the Court, to reverse said several judgments and orders of dismissal and to reverse said judgment and decree, and a citation directed to the said United States of America, complainant and to the said Oregon and California Railroad Company, Southern Pacific Company, Stephen T. Gage, individually and as Trustee, and Union Trust Company, individually and as trustee, defendants, citing and admonishing them and each of them to be and appear at a session of the United States Circuit Court of Appeals for the Ninth Circuit, to be holden in the City of San Francisco, in the State of California, on the ..... day of ..... A. D. 1918 next,

NOW, if the said appellants, principals herein, shall prosecute their appeal to effect and answer all costs, if any, which may be adjudged or taxed against them, if they fail to make their plea good, then the above obligation to be void, otherwise to remain in full force and virtue.

A. W. LAFFERTY,

Solicitors and Attorneys for said defendants cross complainants, John L. Snyder, Julius F. Prahl, Albert E. Thompson, James Barr, Fred Witte, W. A. Anderson, W. H. Anderson, O. M. Anderson, F. E. Williams, Paul Birkenfeld, J. H. Lewis, Francis S. Wiser, W. E. Anderson, Albert Arms, Joseph A. Maxwell, Isaac McKay, J. R. Peterson, D. MacLafferty, Edgar MacLafferty, V. V. McAboy, George C. MacLafferty, George Edgar MacLafferty, E. L. MacLafferty, B. N. MacLafferty, Enos M. Fluhrer, F. W. Floeter, and S. Shryock.

A. W. LAFFERTY,

Solicitors and Attorneys for said defendants cross complainants, Sidney Ben Smith, Orrin J. Lawrence, Robert G. Balderree, Oscar E. Smith, Egbert C. Lake, C. W. Sloat, Jesse F. Holbrook, A. E. Haudenschield, S. H. Montgomery, W. A. Noland, James C. O'Neill, Alexander Fauske, Francis Wiest, Cordelia Michael, John B. Wiest, Cyrus Wiest, John Wiest, Thomas

Manley Hill, Otto Nelson, Jasper L. Hewitt, B. L. Porter, Frank Wells, C. P. Wells, I. H. Ingram, L. G. Reeves, W. W. Wells, F. M. Rhoades, Roy W. Minkler, and Marvin Martin.

MOULTON & SCHWARTZ,

LEWIS C. GARRIGUS,

Socilitors and Attorneys for said defendants cross complainants, John H. Haggett, Charles W. Mead, William Otterstrom, Angus MacDonald, John T. Moan, Joseph D. Hadley, Henry C. Ott, Fred L. Freebing, William Cain, R. T. Aldrich, and O. V. Hickman.

A. C. WOODCOCK,

E. L. C. FARRIN,

DAN R. MURPHY,

LEWIS C. GARRIGUS,

Solicitors and Attorneys for said interveners William F. Slaughter and each and all of the persons whose names are specifically set forth in the above title to this cause, com-

mencing with and including the said William F. Slaughter, down to and including Arthur Persinger, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 24th day of September, 1908.

L. G. ENGLISH,

Solicitors and Attorneys for the said interveners Edward D. Townsend, Louis G. English, Ralph W. Core and Edgar O. Holladay.

A. W. LAFFERTY,

Solicitors and Attorneys for the said interveners John Burbee, Marion Smith, Charles Burbee, Oscar H. Sherman and Charles Wiest.

A. W. LAFFERTY,

Solicitors and Attorneys for the said interveners Milo F. Dennis and Leopold H. Deitz.

SHEPARD &

BURKHEIMER,

Successors to

SHEPARD & FLETT;

JOHN E. BURKHEIMER,

CHARLES E. SHEPARD,

C. I. LEAVENGOOD,

LEWIS C. GARRIGUS,

Solicitors and Attorneys for the said interveners Frank Terrace and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Frank Terrace, down to and including John Zoffi, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 2nd day of December, 1908.

LEROY LOMAX,

LEWIS C. GARRIGUS,

Of Solicitors and Attorneys for the said interveners Charles J. Vanzile and each and all of the persons whose names are speci-

fically set forth in the above title to this cause, commencing with and including the said Charles J. Vanzile, down to and including E. R. Seeley, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 23rd day of December, 1908.

MOULTON & SCHWARTZ,

LEWIS C. GARRIGUS,

Solicitors and Attorneys for the said intervener Luther E. Trowbridge.

A. C. WOODCOCK,

GEO. W. WRIGHT,

LEWIS C. GARRIGUS,

Solicitors and Attorneys for the said interveners George W. Wright, William W. Bailey, Willetta Wright, W. H. Queener, Eulah Wright and Joseph E. Wright.

A. W. LAFFERTY,

Solicitors and Attorneys for the said interveners Arthur L. Golder, George W. Trefen and Lewis J. Trefen.

A. W. LAFFERTY,

Solicitors and Attorneys for the said interveners William E. Carter, Frank Carter and William H. Prentice.

DAY & BREWER,

JNO. MILLS DAY,

LEWIS C. GARRIGUS,

Solicitors and Attorneys for the said interveners Elmer L. Hancock and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Elmer L. Hancock, down to and including Lucius P. Ranous, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 8th day of February, 1909.

OGLESBY YOUNG,

LEWIS C. GARRIGUS,

Solicitors and Attorneys for the said interveners Robert Aistrop, Herb Palmer, Clara L. Palmer, Tina Palmer, P. L. Palmer, Walter Anderson, Lewis Johanson, Edwin Rice, W. C. Rhude and Frank A. Durrah.

A. W. LAFFERTY,

Solicitors and Attorneys for the said interveners William McLeod, Charles O. Anderson, John B. McLeod, John L. Morgan, A. N. Sarjent, J. W. Sargent, Travis Martin, Fred A. Sarjent, J. W. McDonald, E. J. Pearl, Robert C. Martin, Susan Martin, Gertie Martin, Susie Martin, B. S. Martin, S. L. Overton, L. Overton, H. A. Foley, D. O. Cross, and R. C. Foley.

LEWIS C. GARRIGUS,

Solicitors and Attorneys for the said interveners B. W. Nunnally, William Weist, John Weist, Francis Weist, Geo. E. Walling, W. D. Sappington, Edward E. Stucker and O. N. Cranor.

G. G. SCHMITT,

GRIDLEY, CULVER

& KIND,

PAUL C. L'AMOREAUX,

LEWIS C. GARRIGUS,

Solicitors and Attorneys for the said interveners Paul C. L'Amoreaux, Albert E. Barkman, Clyde M. Adair, Carrie M.

Wicker, Julia S. Skilton, Edward H. White, Olive Maguire, Coleman S. Everett, Isadore Whiteson, Harry Hamill, John C. Hamill, Julia R. Fox, Henry W. McFarlane, Fred G. Merrill, Edward Robertson Abbot, Manning D. L'Amoreaux, Agnes G. Stewart, Ida M. Pahlman and Rose L'Amoreaux.

B. W. COINER,

JNO. MILLS DAY,

LEWIS C. GARRIGUS,

Solicitors and Attorneys for the said interveners John F. Fowler, and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said John F. Fowler, down to and including Minnette Johnson, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 1st day of March, 1909.

L. D. MAHONE,

Solicitors and Attorneys for the said interveners L. C. Keylon, E. E. Keylon, C. S.

Staats, E. J. Staats, Rodney C. White, Ida A. White, Grant Nixon, Adolphus Gaunt, and Anton Carlson.

DAY & BREWER,

JNO. MILLS DAY,

LEWIS C. GARRIGUS,

Solicitors and Attorneys for the said interveners R. E. Cameron and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said R. E. Cameron, down to and including John A. Miller, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 1st day of March, 1909.

LEWIS C. GARRIGUS,

Solicitors and Attorneys for the said interveners Charles W. Varnum, Elizabeth M. Edwards, Thomas F. Hartzel, Madge Bartholomew, Daisy Lebo, Mary E. Black, Arthur J. Pate, Flora E. King, Howard

S. Robertson, W. E. Bowdon, Frank B. Mauzer, F. H. Southerland, M. B. Carpenter, H. E. Gould, J. N. Husted, Magdalene Haycox, Samuel Haycox, Louise Rommel, R. W. Edwards, Robert James, Clare M. James, Albert Trego, Leta G. Trego, Harry Hurlbut, Hally E. Hurlbut, Charles E. Pate, Benjamin Bowles, Jesse Bowles, Peter J. Oleson, Frances R. Hopper, Miller E. Preston, Willis G. Mudd, A. C. Spencer, Martin Herbert Kennedy, Dell Dickson, Chauncey Thomas, Frank B. Manzer and Adeline James.

LEROY LOMAX,

LEWIS C. GARRIGUS,

Of Solicitors and Attorneys for the said interveners Nicholas Herrman, Robert Kruse, George W. Sepham, F. E. Gige, Emma Case, Celia Zaugg, George F. Brooks, Harriett Poll, Mary S. Blair, Jay Tice, Frank E. Poll, R. E. Andrews, John Subert, F. K. Kamp, James McHugh, C. B. Hurby, J. E. Ketcham, G. A. Huntzicher, August Matz, Maud Stewart, Fred C. Lundy, Charles F. Barnes, F. A. Hildebrand, Henry A. Balles, J. P. Tiffault, Fred Bustrin, H. M. Bustrin, Byron G. Hall, William O. Hall, Charles E. Lennan,

Hortence B. Lennan, P. G. Larson, William Hoeck and Henry Hoeck.

PARIS MARTIN,

JNO. MILLS DAY,

LEWIS C. GARRIGUS,

Solicitors and Attorneys for the said interveners Edwin F. Anderson and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Edwin F. Anderson, down to and including Montello Gray, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 12th day of May, 1909.

LEWIS C. GARRIGUS,

Solicitors and Attorneys for the said interveners Fred J. Gould and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Fred J. Gould, down to and including E. G. Bentley, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 28th day of July, 1909.

PETER J. DANHOFF, and

H. M. ESTERLY,

LEWIS C. GARRIGUS,

Solicitors and Attorneys for the said interveners Abram B. Horner and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Abram B. Horner, down to and including William Thwaites, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 15th day of December, 1909.

LEWIS C. GARRIGUS,

Solicitors and Attorneys for the said interveners George B. Bothwell and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said George B. Bothwell, down to and including Leota Travers, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 6th day of October, 1909.

PETER J. DANHOFF, and

H. M. ESTERLY,

LEWIS C. GARRIGUS,

Solicitors and Attorneys for the said interveners, Hervey L. Keyes, Chester H. Thornson, Chester H. Thomson, Lyn S. Carter, Byron D. West, George W. Jackson, Laura E. Singer, Alba L. Holmes, Harold R. Nye, Miles B. Campbell, James A. Roxburgh, James A. Rosburgh, Walter J. Hills, Leo A. Caro, Homer F. Van Drezer, Christopher M. Kelly, Samuel B. Ardis, Charles H. Winchester, Charles B. Winchester, Charles J. Kindel, Albert Vandenberg, Anna H. Tromper, Anna H. Trompen, John N. Tromper, John N. Trompen, Joe Van Arondonk, Ira Lubbers, Reimer Van Soest, E. J. Hyink, Henry Strakes, Cornelius Schaap, Elbert S. Schilstra, Henry K. Boer, John De Haan, William Bommelje, Benjamin Hoffman, Peter Bogema, John Bosker, Jacob P. Bosker, Edward C. Smith, John W. Huenink, John H. Huenink, Bertha Moe Seaver, and Elmer H. Ruslink.

LEWIS C. GARRIGUS,

Solicitors and Attorneys for the said inter-

veners Marvin P. Alford and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Marvin P. Alford, down to and including Donald C. Barber, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 14th day of February, 1910.

H. G. LAKE,

LEWIS C. GARRIGUS,

Solicitors and Attorneys for the said interveners Albert Bozarth and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Albert Bozarth, down to and including Retta E. Bishard, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 15th day of March, 1910.

Principals.

THE AETNA ACCIDENT AND LIABILITY COMPANY,

By KARL V. LIVELY,

Resident Vice-President.

Attest:

JOHN CHAMBERLAIN,

Resident Assistant Sec'y.

THE AETNA ACCIDENT AND LIABILITY COMPANY,

By McCARGAR, BATES & LIVELY, Sureties,

Local and General Agents.

By K. V. LIVELY,

Member of Firm.

Seal

The above bond and the sureties thereon approved this 17th day of November, 1913.

CHAS. E. WOLVERTON,

Judge.

(Endorsed) Filed November 17, 1913, A. M. Cannon, Clerk United States District Court, By G. H. Marsh, Deputy.

And that thereafter, on November 11, 1918, there was duly filed in said court the Citation on Separate Appeal of John L. Snyder and others, defendants-cross-complainants, and William F. Slaughter and others, interveners, in words and figures as follows, to-wit:

[TITLE]

United States of America, to

United States of America as Complainant, Oregon and California Railroad Company, Southern Pacific Company, Stephen T. Gage, Individually and as Trustee, and Union Trust Company of New York, Individually and as Trustee, Greeting: Whereas,

JOHN L. SNYDER, Julius F. Prahl, Albert E. Thompson, James Barr, Fred Witte, W. A. Anderson, W. H. Anderson, O. M. Anderson, F. E. Williams, Paul Birkenfeld, J. H. Lewis, Frances S. Wiser, W. E. Anderson, Albert Arms, Joseph A. Maxwell, Isaac McKay, J. R. Peterson, D. MacLafferty, Edgar MacLafferty, V. V. McAboy, George C. MacLafferty, George Edgar MacLafferty, E. L. MacLafferty, B. N. MacLafferty, Enos M. Fluhrer, F. W. Floeter, and S. Shryock, defendants, cross-complainants in the above entitled cause, and

SIDNEY BEN SMITH, Orrin J. Lawrence, Robert G. Balderree, Oscar E. Smith, Egbert C. Lake, C. W. Sloat, Jesse F. Holbrook, A. E. Haudenschield, S. H. Montgomery, W. A. Noland, James C. O'Neil, Alexander Fauske, Francis Wiest, Cordelia Michael,

John B. Wiest, Cyrus Wiest, John Wiest, Thomas Manley Hill, Otto Nelson, Jasper L. Hewitt, B. L. Porter, Frank Wells, C. P. Wells, I. H. Ingram, L. G. Reeves, W. W. Wells, F. M. Rhoades, Roy W. Minkler, and Marvin Martin, defendants, cross-complainants in the above entitled cause, and

JOHN H. HAGGETT, Charles W. Mead, William Otterstrom, Angus MacDonald, John T. Moan, Joseph D. Hadley, Henry C. Ott, Fred L. Freebing, William Cain, R. T. Aldrich, and O. V. Hickman, defendants, cross-complainants in the above entitled cause; and

WILLIAM F. SLAUGHTER, and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said William F. Slaughter, down to and including Arthur Persinger, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause, on the 24th day of September, 1908, and who are too numerous to specifically name again herein, interveners in the above entitled cause; and

EDWARD D. TOWNSEND, Louis G. English, Ralph W. Core, and Edgar C. Holladay, interveners in the above entitled cause; and

JOHN BURBEE, Marion Smith, Charles Burbee, Oscar H. Sherman, and Charles Wiest, interveners in the above entitled cause; and

MILO F. DENNIS, and Leopold H. Dietz, interveners in the above entitled cause; and

FRANK TERRACE, and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Frank Terrace, down to and including John Zoffi, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause on the 2nd day of December, 1908, and who are too numerous to specifically name again herein, interveners in the above entitled cause; and

CHARLES J. VANZILE, and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Charles J. Vanzile, down to and including E. R. Seeley, being all of the persons who, by leave of court, filed their joint complaint in the intervention in this cause on the 23rd day of December, 1908, and who are too numerous to specifically name again herein, interveners in the above entitled cause; and

LUTHER E. TROWBRIDGE, intervener in the above entitled cause; and

GEO. W. WRIGHT, William W. Bailey, Willetta Wright, W. H. Queener, Eulah Wright, and Joseph E. Wright, interveners in the above entitled cause; and

WILLIAM E. CARTER, Frank Carter, and Wil-

liam H. Prentice, interveners in the above entitled cause; and

ARTHUR L. GOLDER, George W. Trefren and Lewis J. Trefern, interveners in the above entitled cause; and

ELMER L. HANCOCK, and each and all of the persons whose names are specifically set forth in the above title to this cause; commencing with and including the said Elmer L. Hancock, down to and including Lucius P. Ranous, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause, on the 8th day of February, 1909, and who are too numerous to specifically name again herein, interveners in the above entitled cause; and

ROBERT AISTROP, Herb Palmer, Clara L. Palmer, Tina Palmer, P. L. Palmer, Walter Anderson, Lewis Johanson, Edwin Rice, W. C. Rhude, and Frank A. Durrah, interveners in the above entitled cause; and

WILLIAM McLEOD, Charles O. Anderson, John B. McLeod, John L. Morgan, A. N. Sarjent, J. W. Sarjent, Fred A. Sarjent, Travis Martin, J. W. McDonald, E. J. Pearl, Robert C. Martin, Susan Martin, Gertie Martin, Susie Martin, B. S. Martin, S. L. Overton, L. Overton, H. A. Foley, D. O. Cross, and R. C. Foley, interveners in the above entitled cause; and

B. W. NUNNALLY, William Weist, John Weist, Francis Weist, Geo. E. Walling, W. D. Sappington,

Edward E. Stucker, and O. N. Cranor, interveners in the above entitled cause; and

PAUL C. L'AMOREAUX, Albert E. Barkman, Clyde M. Adair, Carrie M. Wicker, Julia S. Skilton, Edward H. White, Olive Maguire, Coleman S. Everett, Isadore Whiteson, Harry Hamill, John C. Hamill, Julia R. Fox, Henry W. McFarlane, Fred G. Merrill, Edward Robertson Abbot, Manning D. L'Amoreaux, Agnes G. Stewart, Ida M. Pahlman, and Rose L'Amoreaux, interveners in the above entitled cause; and

JOHN F. FOWLER, Fred B. Hussey, L. L. Scott, Eliza Scott, Geo. W. Scott, L. D. Beary, Glen W. Armour, W. J. Sweet, T. J. McMullen, Geo. S. Lindsey, L. F. Jones, A. Noble, H. N. Noble, H. C. Jones, A. A. Noble, Bertha V. Scott, Gertrude J. McMullen, Emeline S. Phelps, Jas. K. Phelps, Margaret B. Hallowell, C. W. Chapman, Orlando S. Phelps, Robert D. Shutt, Thos. J. Lillis, J. L. Wadsworth, Jessie P. Coffin, Vestel P. Coffin, R. W. Purdum, Lena A. Ingram, H. L. Ingram, Belle Peck, Floy McLeod, Sara Ingram, E. H. McKibbon, J. C. Perry, M. LeRoy White, Minnie M. Halliday, Margaret White, A. LaMare, J. J. Kobetich, John Alderson, Chris Knudsen, S. T. Farr, Chas. Carlyle, Clyde A. Gates, Henry Olmstead, B. Lindahl, Wm. O. Foote, Geo. Schlosser, John R. Read, A. O. Nelson, O. Erickson, T. L. Draper, Frank L. Draper, John Adamson, Leonard Anderson, A. M.

Frankfurt, M. S. Langdon, John Olson, John Hedberg, Jas. DeRose, J. Frank LaRoe, Fanny M. LaRoe, Albert O. Skotterud, C. Wallgren, Emma C. Phelps, Arthur L. Dewey, H. H. Keith, C. Tuttle, H. A. Fisher, Lena M. Storla A. Johnson, Cora E. Ferrel, Van R. Ferrel, Thos. C. Coffin, Geo. Harrison, Fred C. Smith, Walter Hatcher, O. W. Peterson, John Forsberg, Dan'l M. Smith, S. J. Morris, I. J. Edwards, Andrew Lindstrom, A. A. Johnson, I. Carpenter, T. A. McCormick, John C. Farley, John Fitzgerald, Wm. H. French, Geo. L. Scarlett, Michael Fitzgerald, Nils P. Lindgren, Hokan Lundgren, Emma E. Lundgren, Anna E. Lundgren, E. R. Redlich, Ida S. Bell, Milton S. Parrott, John Smedlund, F. E. French, Mary E. Wadsworth, Oscar Sandstrom, Frances A. Short, Albert F. Reed, Lewis E. Handley, William F. Hallowell, Beverly W. Coiner, Anna Arickson, M. H. Woolsey, Sr., E. G. Wollum, Annie Lemon, Martha J. Chapman, Robert Carlson, and Minette Johnson, interveners in the above entitled cause; and

L. C. KEYLON, E. E. Keylon, C. S. Staats, E. J. Staats, Rodney C. White, Ida A. White, Grant Nixon, Adolphs Gaunt, and Anton Carlson, interveners in the above entitled cause; and

R. E. CAMERON, Everett B. Coffin, Ansel B. Hill, Arthur D. Bird, Elizabeth Robinson, W. J. H. Best, Frank J. Clements, Peter H. Ludwig, Hugh Mair, Anna M. Chase, D. H. Smith, Sarah J. Smith, Mary E.

Ludwig, W. J. Hodder, W. B. Heffron, E. E. Christman, James E. Phillips, D. J. O'Connor, Thomas R. Williams, Zula D. Bird, William E. Donohue, James S. Chase, P. T. O'Connor, J. W. Braman, Julius J. Gregat, D. D. Whitcomb, L. F. Hatter, Gertrude Mae Schneider, Marcellus L. Whitcomb, Gilbert Thorson, Fred Schneider, Jas. W. Curtis, Virgil W. Creech, Bertha Josephine Howe, James L. Hoadley, James O'Sullivan, Essie P. Mitchell, J. Y. Mitchell, Albert F. Hopstein, R. H. Holbrook, Edgar H. Blair, R. H. Wilhermsdorfer, Wm. H. Finck, J. T. Hatter, Wm. Curtis, J. A. Schoenberger, Kity V. Hogan, W. H. Hogan, Aaron L. Beers, John C. Kech, Estella A. Beers, Libbie D. Hagler, H. W. McFate, Henry R. Hale, Vincent J. Dermott, John M. Jackson, Andrew M. Thomas, B. Calling, Robert Dudgeon, Mabell F. May, Walter May, Lewis C. Hall, H. A. French, Henry C. Hill, C. C. Cease, Felix A. Rogers, Herman Meyer, Ray McFee, Mary A. Day, Anna E. Loupman, Francis O. Whealon, Bertha May Carr, John Mogus, Chester Kirkpatrick, Chas. Skuhra, F. E. Hammond, D. C. Hall, E. M. Bronilette, M. A. Sprague, J. F. Treen, J. E. Amling, Jennie Rosencrans, Dorotha C. Kech, Preston H. Carr, and John H. Miller, interveners in the above entitled cause; and

CHARLES W. VARNUM, Elizabeth M. Edwards, Thomas F. Hartzel, Madge Bartholomew, Daisy Leabo, Mary E. Black, Arthur J. Plate, Flora E. King, Howard S. Robertson, W. E. Bowden, Frank B. Manzer,

Frank B. Mauzer, F. H. Southerland, M. B. Carpenter, H. E. Gould, J. N. Husted, Magdalene Haycox, Samuel Haycox, Louise Rommel, R. W. Edwards, Robert James, Clare M. James, Albert Trego, Leta G. Trego, Harry Hurlbut, Hally E. Hurlbut, Charles E. Pate, Benjamin Bowles, Jesse Bowles, Peter J. Oleson, Frances R. Hopper, Miller E. Preston, Willis G. Mudd, A. C. Spencer, Martin Herbert Kennedy, Dell Dickson, Chauncy Thomas, and Adeline James, interveners in the above entitled cause; and

NICHOLAS HERRMAN, Robert Kruse, George W. Sepham, F. E. Gige, Emma Case, Celia Zaugg, George F. Brooks, Harriett Poll, Mary S. Blair, Jay Tice, Frank E. Poll, R. E. Andrews, John Subert, F. K. Kamp, James McHugh, C. B. Hurby, J. E. Ketchum, G. A. Hutzicher, August Matz, Maud Stewart, Fred C. Lundy, Charles F. Barnes, F. A. Hildebrand, Henry A. Balles, J. P. Tiffault, Fred Bustrin, H. M. Bustrin, Byron G. Hall, William O. Hall, Charles E. Lennan, Hortence B. Lennan, P. G. Larson, William Hoeck, and Henry Hoeck, interveners in the above entitled cause; and

EDWIN F. ANDERSON, Emma K. Barr, Mabel A. Barr, John Boeck, Wardel Boeck, G. V. Booth, Anna B. Booth, Joseph W. Brady, William A. Boze, Eric Q. Brainard, John Charles Brodie, George Brunt, J. R. Buck, George A. Buck, Thomas Butler, F. M. Bybee, Herbert W. Calkins, Ben W. Calkins, N. W. Calkins,

Nellie B. Calkins, Etta S. Clear, M. H. Coffin, Edna Coffin, Mark Coffin, Mary A. Coffin, Elza Davis, George J. Davis, Thea Falk, John C. Filer, Mary G. Filer, Frank C. Irons, Jacob H. Keefer, R. D. Leach, Lillian E. Leach, Andrew C. Leach, Amelia Lind, M. E. Longfellow, W. L. McCaslin, Ira L. Macomber, Harry J. Marcus, Elias D. Marquand, D. G. Martin, Helen Martin, Frank J. Miller, George Miller, George W. Mills, Fred Mosely, Althea Munroe, Orr W. Noble, William S. Northrup, David R. Page, C. M. Paxton, Helen A. Payne, Alice J. Pelot, Henry Rasmussen, Elmer Rasmussen, Irene K. Rodgers, Napoleon B. Rodgers, William D. Rogers, Frank O. Schramm, A. J. Seckner, Gertrude Seckner, George E. Smith, Dallas W. Spangler, D. W. Stainbrook, Anna Steensland, Frank R. Storm, Norbert H. Storm, L. B. Taylor, Joseph Thompson, C. H. West, J. Ernest White, Daniel A. Wisecup, W. W. Calkins, Etta S. Clarr, Marg G. Filer, Guy E. Winzer, and Montello Gray, interveners in the above entitled cause; and

FRED J. GOULD, Beverly B. Deems, George Daniel, W. H. Harris, John D. Sullivan, Daniel S. Green, Adolph O. Keller, Peter Haupt, Lillian M. Hanley, Tobias S. Miller, Ezra H. Stafford, Peter T. Barrett, William A. McAtee, Joseph V. Barrett, George B. Reynolds, Massey Wilson, Henry Schurmann, Edwin B. Schurman, Adolph G. Enderly, Flora A. Branstetter, William D. Burhans, Jacob J. Koenigsmark, Florence E. Stafford, Fannie A. Stafford, Edwin M. Stafford,

Justus H. Hohl, Louis J. Bechtold, John C. Greulich, A. M. Scheel, Effie Grace Sumney, Herman C. Kralemann, J. W. Vandolah, Ward D. Flinn, Joseph A. Stewart, C. W. Cooper, Hoxie Cooper, Roxie Cooper, Flora Beardsley, Raymond M. Beardley, James A. Owens, Clinton S. Braden, S. M. Braden, Sears Lehman, Garfield J. Tansing, L. G. Davis, Robert J. Hood, Robert Rives, J. B. Leemon, Helen H. Dearborn, W. B. Dearborn, W. E. Dearborn, David O'Neal, Leonard P. Lockwood, George K. Boyd, Frank J. Smith, Estella J. Smith, John D. LaCroix, Benjamin F. Wheeler, F. A. Gooch, Mrs. M. O. Woodruff, Charles P. Howland, James Lacy, A. L. Gibbs, Paul Vinyard, William H. Lockwood, Allen W. Thomas, and E. G. Bentley, interveners in the above entitled cause; and

ABRAM B. HORNER, and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Abraham B. Horner, down to and including William Thwaites, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause, on the 15th day of December, 1909, and who are too numerous to specifically name again herein, interveners in the above entitled cause; and

GEORGE B. BOTHWELL, and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said George B. Bothwell, down to and including Leota Travers, being all of the persons who, by leave of

court, filed their joint complaint in intervention in this cause, on the 6th day of October, 1909, and who are too numerous to specifically name again herein, interveners in the above entitled cause; and

HERVEY L. KEYES, Chester H. Thornson, Chester H. Thomson, Lynn S. Carter, Byron D. West, George W. Jackson, Laura E. Singer, Alba L. Holmes, Harold R. Nye, Miles B. Campbell, James A. Roxburgh, James A. Rosburgh, Walter J. Hills, Leo A. Caro, Homer F. Van Drezer, Christopher M. Kelly, Samuel B. Ardis, Charles H. Winchester, Charles B. Winchester, Charles J. Kindel, Albert Vandenberg, Anna H. Tromper, Anna H. Trompen, John N. Tromper, John N. Trompen, Joe Van Arendonk, Ira Lubbers, Reinier Van Soest, E. J. Hyink, Henry Strakes, Cornelius Schaap, Elbert S. Schilstra, Henry K. Boer, John De Haan, William Bommelje, Benjamin Hoffman, Peter Bogema, John Bosker, Jacob P. Bosker, Edward C. Smith, John W. Huenink, John H. Heunink, Bertha Moe Seaver, and Elmer H. Ruslink, interveners in the above entitled cause; and

MARVIN P. ALFORD, and each and all of the persons whose names are specifically set forth in the above title to this couse, commencing with and including the said Marvin P. Alford, down to and including Donald C. Barber, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause, on the 14th day of February, 1910, and

who are too numerous to specifically name again herein, interveners in the above entitled cause; and

ALBERT BOZARTH, and each and all of the persons whose names are specifically set forth in the above title to this cause, commencing with and including the said Albert Bozarth, down to and including Retta E. Bishard, being all of the persons who, by leave of court, filed their joint complaint in intervention in this cause, on the 15th day of March, 1910, and who are too numerous to specifically name again herein, interveners in the above entitled cause.

Have filed in the above and foregoing entitled Court and Cause, their joint and several petition for appeal, appealing from the various orders and judgments of dismissal and from the decree entered against them therein on the first day of July, 1918, to the United States Circuit Court of Appeals for the Ninth Circuit, and

Whereas, their said petition has been granted and their appeal allowed,

Now therefore you and each of you are hereby cited and admonished to be and appear in said Court at San Francisco, California, within 30 days after the date of this citation, to show cause, if any there be, why the various orders and decree appealed from should not be corrected and speedy justice done the parties in that behalf.

Whereas the Hon. Chas. E. Wolverton, Judge of the United States District Court for the District of Oregon, this 11th day of November, A. D. 1913.

CHAS. E. WOLVERTON,

Judge.

Receipt of a copy of the above and foregoing citation is acknowledged and due and legal service of the same admitted this 11 day of November, A. D. 1913.

Jas. C. McReynolds,
Attorney General of U. S.

B. D. Townsend,
Special Assistant to Attorney General.

By Fred C. Rabb,
Special Assistant to Attorney General.

Clarence L. Reames,
United States Attorney.

By Robert R. Rankin,
Assistant United States Attorney.

Solicitors and Attorneys for the Complainant, United States of America.

Wm. D. Fenton,

P. F. Dunne and

Wm. F. Herrin,

Solicitors and Attorneys for the Defendants Oregon and

California Railroad Company, Southern Pacific Company and Stephen T. Gage, Individually and as Trustee.

Jno. M. Gearin,

Solicitor and Attorney for the Defendant Union Trust Company of New York, Individually and as Trustee.

(Endorsed) Filed November 11, 1918, A. M. Cannon, Clerk United States District Court.

And thereafter, on July 1, 1913, there was duly filed an order extending and enlarging time to prepare, etc. the record of evidence, in words and figures, as follows, to-wit:

[TITLE]

Now at this time, July 1, 1913, upon motion of counsel for Oregon & California Railroad Company, Southern Pacific Company, Stephen T. Gage, individually and as trustee and Union Trust Company, individually and as trustee, defendants above named, for an order of this court extending and enlarging the time for the said defendants and each of them, to prepare, serve, and lodge in the office of the Clerk of the above entitled court, their and each of their proposed statement and record of the evidence on appeal in the above entitled cause; and the complainant appearing by its attorney, B. D. Townsend, Assistant to the Attorney General of the United States, and it appearing to the court that good cause is shown and exists for said order and that the said defendants and each of them, as well as each and all of the cross complainants and intervenors in the above entitled cause are entitled to such order,

IT IS ORDERED That the time for the said defendants and each of them, and for the cross complainants and each of them, and for the intervenors and each of them in the above entitled cause, to prepare, serve and lodge their and each of their said proposed statement and record of the evidence, on appeal in the above

entitled cause be and the same hereby is extended and enlarged to and inclusive of the first day of September, A. D. 1918.

CHAS. E. WOLVERTON,
District Judge.

(Endorsed) Filed July 1, 1918, A. M. Cannon, Clerk U. S. District Court.

And thereafter, on July 5, 1918, there was duly filed by complainant a cost-bill in this cause, in words and figures as follows, to-wit:

[TITLE]

Statement of disbursements claimed by the complainant in the above entitled cause, against the defendants Oregon and California Railroad Company, Southern Pacific Company, Stephen T. Gage and Union Trust Company, viz:

Clerks' fees	$
Marshal's fees	269.47
Attorney's fees	40.00
Deposition of 70 witnesses before Special Examiner	350.00
Examiner's fees	1,942.50
Witness fees (as appears from the records of the Marshal's office and the Clerk's office showing payment)	3,268.80

Total taxed at .....

.....

Clerk.

UNITED STATES OF AMERICA,)
) ss.
District of Oregon.)

I, B. D. Townsend, being duly sworn, on my oath say that I am one of the attorneys for the complainant in the above entitled cause; that the disbursements set forth herein have been actually and necessarily incurred in the prosecution of this suit; and that the said complainant is entitled to recover the same from the defendants Oregon and California Railroad Company, Southern Pacific Company, Stephen T. Gage and Union Trust Company, as I verily believe.

B. D. TOWNSEND,

Subscribed and sworn to before me this 5th day of July, 1918.

FREDERICK H. DRAKE,
Clerk.

(Seal) United States Commissioner,
District of Oregon.

Service of the foregoing statement of disbursements, at Portland, Oregon, this 2nd day of July, 1918, is hereby admitted.

PETER F. DUNNE,
WM. D. FENTON
and JAMES E. FENTON,
Attorneys for defendants Oregon and California Railroad Company, Southern Pacific Company and Stephen T. Gage.

JNO. M. GEARIN,

Attorneys for defendant Union Trust Company.

(Endorsed) Filed July 5, 1913, A. M. Cannon, Clerk U. S. District Court.

And thereafter, on August 29, 1918, there was duly filed by defendants a cost-bill in this cause against Marvin P. Alford, and others (and like cost-bills against other parties in each bill of intervention), in words and figures, as follows, to-wit:

[TITLE]

STATEMENT OF COSTS AND DISBURSEMENTS

Claimed by the defendants in the above entitled cause against MARVIN P. ALFORD, and others, who filed their joint complaint in intervention herein on the 14th day of February, 1910, interveners in the above entitled cause.

Clerk's fees	$ .70
Costs upon decision, of demurrer of Oregon & California Railroad Company, Southern Pacific Company, and Stephen T. Gage, individually and as trustee, to complaint in intervention of the above named interveners, and of motion to dismiss said complaint	10.00
Total	$10.70

UNITED STATES OF AMERICA,)
) ss.
District of Oregon.)

I, JAMES E. FENTON, being duly sworn, de-

pose and say that I am one of the attorneys for the above named defendants; that the costs and disbursements set forth herein have been actually and necessarily incurred in the prosecution of this suit; and that said defendants are entitled to recover the same from said interveners, as I verily believe.

JAMES E. FENTON.

Subscribed and sworn to before me this 20th day of August, A. D., 1918.

BEN C. DEY,

Notary Public for the State of Oregon, residing at Portland, Oregon.

(Seal)

Service of the foregoing
cost bill is admitted this
28th day of August, 1918.

LEWIS C. GARRIGUS,

Attorney for said Interveners.

(Endorsed) Filed August 29, 1918, A. M. Cannon, Clerk U. S. District Court.

And thereafter, on August 30, 1913, there was duly filed an order extending and enlarging time to prepare, etc. the record of evidence, in words and figures as follows, to-wit:

[TITLE]

Now at this time, August 30th, 1913, upon motion of counsel for Oregon & California Railroad Company, Southern Pacific Company, Stephen T. Gage, individually and as trustee and Union Trust Company, individually and as trustee, defendants above named, for an order of this court extending and enlarging the time for the said defendants and each of them, to prepare, serve, and lodge in the office of the Clerk of the above entitled court, their and each of their proposed statement and record of the evidence on appeal in the above entitled cause; and the complainant appearing by its attorney, B. D. Townsend, Assistant to the Attorney General of the United States, and it appearing to the court that good cause is shown and exists for said order and that the said defendants and each of them, as well as each and all of the cross complainants and interveners in the above entitled cause are entitled to such order,

IT IS ORDERED that the time for the said defendants and each of them, and for the cross complainants and each of them, and for the interveners and each of them in the above entitled cause, to prepare, serve and lodge their and each of their said proposed statement,

record and record of the evidence, on appeal in the above entitled cause be and the same hereby is extended and enlarged to and inclusive of the first day of November, A. D. 1913.

CHAS. E. WOLVERTON,

District Judge.

(Endorsed) Filed August 30, 1913, A. M. Cannon, Clerk U. S. District Court.

And thereafter, on August 30, 1918, there was duly filed an order enlarging the time for filing record on appeal, in words and figures as follows, to-wit:

[TITLE]

Now at this time, August 30th, 1918, upon motion of counsel for Oregon & California Railroad Company, Southern Pacific Company, Stephen T. Gage, individually and as trustee, and Union Trust Company, individually and as trustee, defendants above named, and of counsel for the said defendants cross complainants and interveners above named, for an order of this court enlarging the time for the said defendants and each of them, and for the said defendants cross complainants and each of them, and for the said interveners and each of them, to file the record on appeal in the above entitled cause, with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, and to docket said cause therein; and it appearing to the court that good cause is shown and exists for said order,

IT IS ORDERED that the time for the said defendants, the said defendants cross complainants and said interveners, to file the record on appeal in the above entitled cause and docket the same with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, be and the same hereby is extended and enlarged to and inclusive of the first day of November, A. D., 1918.

CHAS. E. WOLVERTON,
United States District Judge.

(Endorsed) Filed August 30, 1918, A. M. Cannon, Clerk U. S. District Court.

(Endorsed) Filed September 2, 1918, F. D. Monckton, Clerk.

And thereafter, on September 25, 1913, there was duly filed an order enlarging the time for filing record on appeal, in words and figures as follows, to-wit:

[TITLE]

Now at this time, September 25th, 1913, upon motion of counsel for Oregon and California Railroad Company, Southern Pacific Company, Stephen T. Gage, individually and as trustee, and Union Trust Company, individually and as trustee, defendants above named, and of counsel for the said defendants-cross complainants and interveners above named, and of all other cross complainants and interveners who are parties to the appeal taken herein on the 29th day of August, 1913, APPELLANTS in the above entitled cause, for an order of this court enlarging and extending the time for the said appellants and each of them to file the record on appeal in the above entitled cause with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, and to docket said cause therein; and it appearing to the undersigned Judge of the United States District Court for the District of Oregon, who signed the citation on said appeal, that good cause is shown and exists for said order:

IT IS ORDERED that the time for the said appellants, to-wit, the said defendants, the said defendants-cross complainants and said interveners, and for all parties who have heretofore taken an appeal in the above entitled cause, and that the time of each of said appel-

lants to file the record on appeal in said cause with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, and to docket the case with said clerk, be, and the same is hereby enlarged and extended up to and including the 31st day of December, A. D. 1913.

CHAS. E. WOLVERTON,
Judge.

(Endorsed) Filed September 25, 1913, A. M. Cannon, Clerk U. S. District Court.

(Endorsed) Filed October 8, 1913, F. D. Monckton, Clerk.

And thereafter, on September 25, 1913, there was duly filed an order enlarging the time to prepare, etc. record of evidence on appeal, in words and figures as follows, to-wit:

[TITLE]

Now at this time, September 25, 1913, upon motion of counsel for Oregon & California Railroad Company, Southern Pacific Company, Stephen T. Gage, individually and as trustee, and Union Trust Company, individually and as trustee, defendants above named, for an order of this court extending and enlarging the time for the said defendants and each of them, to prepare, serve and lodge in the office of the Clerk of the above entitled court, their and each of their proposed statement and record of the evidence on appeal in the above entitled cause; and it appearing to the court that good cause is shown and exists for said order and that the said defendants and each of them, as well as each and all of the cross-complainants and interveners in the above entitled cause are entitled to such order.

IT IS ORDERED that the time for the said defendants and each of them, and for the cross-complainants and each of them, and for the interveners and each of them, in the above entitled cause, to prepare, serve and lodge their and each of their said proposed statement, record and record of the evidence, on appeal in the above entitled cause be and the same hereby is ex-

tended and enlarged to and inclusive of the 31st day of December, A. D., 1918.

CHAS. E. WOLVERTON,
District Judge.

(Endorsed) Filed September 25, 1918, A. M. Cannon, Clerk U. S. District Court.

And thereafter, on October 18, 1913, there was duly filed by the defendants and appellants herein, Oregon and California Railroad Company, Southern Pacific Company, Stephen T. Gage, individually and as trustee, and Union Trust Company, individually and as trustee, a praecipe herein in words and figures as follows, to-wit:

(TITLE)

TO A. M. CANNON, CLERK OF THE ABOVE-ENTITLED COURT:

Comes now the defendants and appellants Oregon and California Railroad Company, Southern Pacific Company, Stephen T. Gage, individually and as trustee, and Union Trust Company, individually and as trustee of defendants and appellants herein, and request that the following record be printed on appeal to the United States Circuit Court of Appeals for the Ninth Circuit in this cause, towit:

1. Bill of Complaint.

2. Petition, answer and cross bill of B. W. Nunnally and seven other persons.

3. Order of court allowing B. W. Nunnally and seven others to intervene.

4. Cross-complaint of John L. Snyder, et al.

5. Joint and several demurrer of the defendants Oregon and California Railroad Company, Southern

Pacific Company and Stephen T. Gage to the bill of complaint.

6. Joint and several demurrer of the Oregon and California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as trustee, to the petition, answer and cross bill of B. W. Nunnally and seven other persons.

7. Joint and several demurrer of the defendants Oregon and California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as trustee, to the cross-complaint of John L. Snyder and others.

8. Demurrer of Union Trust Company to the cross-complaint of John L. Snyder and others.

9. Order submitting demurrers above mentioned.

10. Order of court upon the above mentioned demurrers.

11. Opinion of court upon demurrers above mentioned.

12. Order of August 22, 1911, allowing Oregon and California Railroad Company, Southern Pacific Company, Stephen T. Gage, et al., fifteen days from August 24, 1911 to file answer.

13. Joint and several answer of the defendants Oregon and California Railroad Company, Southern Pacific Company and Stephen T. Gage as amended.

14. Order of December 8, 1911, allowing first amendment to joint and several answer of the defendants Oregon and California Railroad Company, Southern Pacific Company and Stephen T. Gage.

15. Order of April 28, 1913, allowing second amendment to the joint and several answer of the defendants Oregon and California Railroad Company, Southern Pacific Company and Stephen T. Gage.

16. Order of April 28, 1913, allowing additional amendments to the joint and several answer of the defendants Oregon and California Railroad Company, Southern Pacific Company and Stephen T. Gage.

17. Amended answer of Union Trust Company of New York.

18. Order of April 28, 1913 allowing amendment to amended answer of Union Trust Company.

19. Replication of the United States to the joint and several answer of the Oregon and California Railroad Company, Southern Pacific Company and Stephen T. Gage as amended.

20. Replication of United States to the answer of Union Trust Company of New York as amended.

21. Order of February 8, 1912 appointing examiner to take testimony herein.

22. Orders of court extending time to take testimony.

23. Motions to dismiss the cross-complaints and bills of intervention.

24. Order dismissing cross-complaints and bills of intervention.

25. Judgment and decree.

26. Stipulation as to the Facts, filed January 31, 1913.

27. The evidence as shown by the statement and order of court hereto attached and made a part of this praecipe, marked "Exhibit A."

28. All orders extending time of the parties to prepare their statement of facts and other papers on appeal.

29. Petition of Oregon and California Railroad Company, Southern Pacific Company, Stephen T. Gage and others for appeal, filed August 29, 1913.

30. Order of August 29, 1913 allowing appeal.

31. Assignments of error on appeal of the Oregon & California Railroad Company, Southern Pacific Company, Stephen T. Gage, individually and as trustee, and Union Trust Company, individually and as trustee, severally, being four in number,—printing title of assignments of error in full once only.

32. Bond of Oregon and California Railroad Company, Southern Pacific Company, Stephen T. Gage,

individually and as trustee, and Union Trust Company, individually and as trustee, on appeal.

33. Citation on appeal.

34. Orders enlarging the time of the appellants to lodge their proposed statement and record of the evidence on appeal and order enlarging and extending time to file the record on appeal.

35. Cost bill of U. S., cost bill of Oregon and California R. R. Co., Southern Pacific Company, and Stephen T. Gage, and cost bill of Union Trust Company, the last two cost bills are each for cross-complainants, and are each for interveners.

WM. D. FENTON and
P. F. DUNNE,

Attorneys for defendants-Appellants Oregon and California Railroad Company, Southern Pacific Company and Stephen T. Gage, individually and as Trustee.

WM. F. HERRIN,
Counsel.

DOLPH, MALLORY, SIMON & GEARIN,
JNO. M. GEARIN,

Attorneys for Defendant-Appellant Union Trust Company of New York, individually and as Trustee.

(Endorsed) Filed October 18, 1913, A. M. Cannon, Clerk U. S. District Court.

And thereafter, on December 18, 1918, there was duly filed an order extending time to prepare, etc., record of evidence on appeal, in words and figures as follows, to-wit:

(TITLE)

Now at this time, December 18th, 1918, upon motion of counsel for Oregon & California Railroad Company, Southern Pacific Company, Stephen T. Gage, individually and as trustee, and Union Trust Company, individually and as trustee, defendants above named, for an order of this court extending and enlarging the time for the said defendants and each of them, to prepare, serve and lodge in the office of the Clerk of the above entitled court, their and each of their proposed statement and record of the evidence on appeal in the above entitled cause; and it appearing to the court that good cause is shown and exists for said order and that the said defendants and each of them, as well as each and all of the cross-complainants and interveners in the above entitled cause are entitled to such order.

IT IS ORDERED that the time for the said defendants and each of them, and for the cross-complainants and each of them, and for the interveners and each of them, in the above entitled cause, to prepare, serve and lodge their and each of their said proposed statement, record and record of the evidence, on appeal in the above entitled cause be and the same hereby is extended and enlarged to and inclusive of the 28th day of

February A. D. 1914.

CHAS. E. WOLVERTON,

District Judge.

DISTRICT OF OREGON,)
) ss.
County of Multnomah)

Due service of notice of application for the within order is hereby accepted in Multnomah County, Oregon, this 18th day of December, 1913, by receiving a copy thereof, duly certified to as such by Wm. D. Fenton of Attorney for Defendants.

B. D. TOWNSEND,

Attorney for Complainant and Assistant to the Attorney-General of the United States.

(Endorsed) Filed December 18, 1913, A. M. Cannon, Clerk U. S. District Court.

(Endorsed) Filed December 27, 1913, F. D. Monckton, Clerk.

And thereafter, on December 18, 1913, there was duly filed an order extending time to file record on appeal, in words and figures as follows, to-wit:

(TITLE)

Now at this time, December 18th, 1913, upon motion of counsel for Oregon and California Railroad Company, Southern Pacific Company, Stephen T. Gage, individually and as trustee, and Union Trust Company, individually and as trustee, defendants above named, and of counsel for the said defendants-cross complainants and interveners above named, and of all other cross-complainants and interveners who are parties to the appeal taken herein on the 29th day of August, 1913, APPELLANTS in the above entitled cause, for an order of this court enlarging and extending the time for the said appellants and each of them to file the record on appeal in the above entitled cause with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, and to docket said cause therein; and it appearing to the undersigned Judge of the United States District Court for the District of Oregon, who signed the citation on said appeal, that good cause is shown and exists for said order:

IT IS ORDERED that the time for the said appellants, to-wit, the said defendants, the said defendants-cross complainants and said interveners, and for all parties who have heretofore taken an appeal in the above entitled cause, and that the time of each of said

appellants to file the record on appeal in said cause with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, and to docket the case with said clerk, be, and the same is hereby enlarged and extended up to and including the 28th day of February A. D. 1914.

CHAS. E. WOLVERTON,
United States District Judge.

(Endorsed) Duplicate filed December 18, 1913, A. M. Cannon, Clerk U. S. District Court, by G. H. Marsh, Deputy.

(Endorsed) Filed December 27, 1913, F. D. Monckton, Clerk.

And thereafter, on February 23, 1914, there was duly filed an order extending time to prepare, etc., record of evidence on appeal, in words and figures as follows, to-wit:

(TITLE)

Now at this time, February 23rd, 1914, upon motion of counsel for Oregon & California Railroad Company, Southern Pacific Company, Stephen T. Gage, individually and as trustee, and Union Trust Company, individually and as trustee, defendants above named, for an order of this court extending and enlarging the time for the said defendants and each of them, to prepare, serve and lodge in the office of the Clerk of the above entitled court, their and each of their proposed statement and record of the evidence on appeal in the above entitled cause; and it appearing to the court that good cause is shown and exists for said order and that the said defendants and each of them, as well as each and all of the cross-complainants and interveners in the above entitled cause are entitled to such order.

IT IS ORDERED that the time for the said defendants and each of them, and for the cross-complainants and each of them, and for the interveners and each of them, in the above entitled cause, to prepare, serve and lodge their and each of their said proposed statement, record, and record of the evidence, on appeal in the above entitled cause, be and the same hereby is extended and enlarged to and inclusive of the 31st day

of March, A. D. 1914.

CHAS. E. WOLVERTON,

District Judge.

(Endorsed) Filed February 23, 1914, A. M. Cannon, Clerk U. S. District Court.

DATE TO COME ... ...

DISTRICT OF OREGON,)
) ss.
County of Multnomah.)

Due service of the within order and notice of application therefor is hereby accepted in said County, Oregon, this 23d day of February, 1914, by receiving a copy thereof, duly certified to as such by Wm. D. Fenton of Attorneys for Defendants named.

B. D. TOWNSEND,

Assistant to the Attorney General and Attorney for Plaintiff.

(Endorsed) Filed December 18, 1913, A. M. Cannon, Clerk U. S. District Court.

And thereafter, on February 28, 1914, there was duly filed an order extending time to file record on appeal, in words and figures as follows, to-wit:

(TITLE)

NOW at this time, February 23rd, 1914, upon motion of counsel for Oregon and California Railroad Company, Southern Pacific Company, Stephen T. Gage, individually and as trustee, and Union Trust Company, individually and as trustee, defendants above named, and of counsel for the said defendants-cross complainants and interveners above named, and all other cross complainants and interveners who are parties to the appeal taken herein on the 29th day of August, 1913, APPELLANTS in the above entitled cause, for an order of this Court enlarging and extending the time for the said Appellants and each of them, to file the record on appeal in the above entitled cause with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, and to docket said cause therein; and it appearing to the undersigned Judge of the United States District Court for the District of Oregon, who signed the citation on said appeal, that good cause is shown and exists for said order.

IT IS ORDERED, that the time for the said Appellants, to-wit, the said defendants, the said defendants-cross complainants and said interveners, and for all parties who have heretofore taken an appeal in the above entitled cause, and that the time for each of said Ap-

pellants to file the record on appeal in said cause with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit and to docket the case with said Clerk be, and the same is, hereby enlarged and extended up to and including the 31st day of March, A. D. 1914.

(Signed) CHAS. E. WOLVERTON,
United States District Judge.

(Endorsed) Filed February 23, 1914, A. M. Cannon, Clerk U. S. District Court.

(Endorsed) Filed ....., F. D. Monckton, Clerk.

And thereafter, on March 14, 1914, there was duly filed in this cause a stipulation entered into between complainant and defendants, defendants-cross-complainants, and defendants-interveners, in words and figures as follows, to-wit:

(TITLE)

IT IS HEREBY STIPULATED by and between the United States of America, complainant above named, and the Oregon & California Railroad Company, Southern Pacific Company, Stephen T. Gage, individually and as trustee, and Union Trust Company, individually and as trustee, defendants, all of the defendants-cross-complainants herein, and all of the interveners herein, by their respective attorneys, subscribers hereto, as follows, to-wit:

I.

The cross appeal of the defendants-cross-complainants and interveners herein taken in the above entitled suit on November 11, 1913, shall be tried, heard and determined at the same time and upon the same record as in and upon the appeal of the defendants Oregon & California Railroad Company, Southern Pacific Company, Stephen T. Gage, individually and as trustee, and Union Trust Company, individually and as trustee; and said cross appeal shall be so heard, tried and determined upon said record, including any properly constituted printed record of the said defendants-cross-complainants and interveners which may properly constitute the appeal papers on their appeal.

II.

WHEREAS, the proceedings with reference to all of said defendants-cross-complainants are identical, and consist of (1) the bill of complaint filed by and on behalf of the United States; (2) the several answers filed by and on behalf of the defendants Oregon & California Railroad Company, Southern Pacific Company, Stephen T. Gage, individually and as trustee, and Union Trust Company, individually and as trustee; (3) the several cross-complaints and answers filed by said defendants-cross-complainants; (4) the several motions to dismiss said cross-complaints filed by the United States; (5) the several demurrers to said cross-complaints and motions todismiss said cross-complaints filed and interposed by the defendants Oregon & California Railroad Company, Southern Pacific Company and Stephen T. Gage; (6) the several demurrers to said cross-complaints and motions to dismiss said cross-complaints filed and interposed by the defendant Union Trust Company; (7) the several orders of the Court sustaining the motions to dismiss and demurrers interposed as to said cross-complaints by the United States and said defendants as aforesaid; (8) the judgment and decree of the Court dismissing said several cross-complaints; (9) the several orders taxing and allowing costs against said defendants-cross-complainants respectively, in favor of the United States and in favor of said several defendants who interposed demurrers to, and motions to dismiss said cross-complaints as aforesaid; (10) the

several appeal papers filed by and on behalf of said cross-complainants, consisting of petition for appeal, order allowing appeal, citation, bond on appeal, assignment of errors, and all other papers pertaining to said appeal; and

WHEREAS, the general proceedings as to all of the interveners in said cause are likewise identical, and are also identical with the general proceedings as to said cross-complaints, with the exception that bills in intervention were filed instead of cross-complaints, and the allegations of said cross-complaints differ in some matters from the allegations of said bills in intervention; and

WHEREAS, all of said cross-complaints are identical in substance, differing only as to parties, description of land, dates and other matters of description; and all of said bills in intervention are likewise identical in substance; and

WHEREAS, because of the premises, the decision of any Appellate Court as to any one of said defendants-cross-complainants must necessarily be controlling as to all of said defendants-cross-complainants; and likewise, the decision of any Appellate Court as to any one of the interveners must necessarily be controlling as to all of said interveners; and

WHEREAS, because of the premises, it is unnecessary to include in the printed record upon the pending

appeal or any future appeal in said cause the documents and proceedings pertaining to more than one of said cross-complaints or to more than one of said bills in intervention;

NOW, THEREFORE, because of the premises, and to the end that the record in this cause may not be unnecessarily encumbered, and that the expenses of the appellate proceedings may not be unnecessarily increased, IT IS HEREBY STIPULATED by and between the complainant, the United States, the defendants Oregon and California Railroad Company, Southern Pacific Company, Stephen T. Gage, individually and as trustee, and the Union Trust Company, individually and as trustee, each and all of said defendants-cross-complainants, and each and all of said interveners, as follows, to-wit:

There shall be printed in the record upon the pending appeal or any future appeal in said cause the papers and proceedings, including those hereinbefore mentioned, pertaining to the cross-complaint of John L. Snyder and others; and it shall not be necessary to include in said printed record any of the papers or proceedings pertaining to any of the other of said defendants-cross-complainants; and the decision of any Appellate Court as to said cross-complaint of said John L. Snyder and others, and said defendants-cross-complainants, shall be controlling as to all of said cross-complaints, and said defendants-cross-complainants, in this cause.

There shall be printed in the record upon the pending appeal or any future appeal in said cause the papers and proceedings, including those hereinbefore mentioned, pertaining to the bill in intervention of B. W. Nunally and others; and it shall not be necessary to include in said printed record any of the papers or proceedings pertaining to any of the other of said interveners; and the decision of any Appellate Court as to said bill in intervention of said B. W. Nunally and others, and said interveners, shall be controlling as to all of said bills in intervention, and said interveners, in this cause.

III.

The rights of all of said cross-complainants and of all of said interveners shall be heard, determined and disposed of, upon said pending appeal, or any future appeal in said cause, in the same manner, and with the same effect, as though the papers pertaining to all of said cross-complaints and bills in intervention were included in the printed record in said cause. The decision upon the pending appeal or any future appeal as to the defendants-cross-complainants John L. Snyder and others shall be controlling as to all other defendants-cross-complainants in this cause; and likewise, the decision upon the pending appeal or any future appeal as to the interveners B. W. Nunally and others shall be controlling as to all of the other interveners in this cause.

IV.

So far as may be convenient, the appeal papers of the said defendants-cross-complainants and of the said interveners shall be printed together and in a separate volume, but the said entire record shall be numbered Volume I, II, etc., to and including the last volume consecutively, but the entire record printed on the appeal, as well as upon said cross-appeal may be conisdered by the court in the determination of all questions involved in said cause on appeal, whether said questions are raised upon the appeal of the defendants Oregon & California Railroad Company, Southern Pacific Company, Stephen T. Gage, individually and as trustee, the Union Trust Company, individually and as trustee, or upon the cross-appeal of John L. Snyder and others, defendants-cross-complainants, or B. W. Nunally and others, interveners.

V.

The process in this cause was duly issued and served by the United States upon the defendants Oregon & California Railroad Company, Southern Pacific Company, Stephen T. Gage, individually and as trustee, and Union Trust Company, individually and as trustee, as well as upon cross-complainants who were named as defendants in the bill of complaint; and the interveners and cross-complainants duly served upon complainant and upon the defendants Oregon & California Railroad Company, Southern Pacific Company, Stephen T.

Gage, individually and as trustee, and Union Trust Company, individually and as trustee, copies of their said bills in intervention and cross-complaints; and thereafter the said complainant duly filed its several motions to dismiss said cross-complaints and said bills in intervention, and the said defendants duly filed their said several demurrers to each of said cross-complaints and said bills in intervention.

VI.

The foregoing stipulation is not intended to prescribe the contents of the printed record of the proceedings with reference to the pending appeal or any future appeal in this cause prosecuted by the defendants Oregon & California Railroad Company, Southern Pacific Company, Stephen T. Gage, individually and as trustee, and Union Trust Company, individually and as trustee, or either or any of them, either jointly with said defendants-cross-complainants and said interveners, or otherwise. The appeal by all of said parties is described herein as the main appeal, to distinguish the same from the separate appeal or appeals prosecuted by the cross-complainants and interveners, the latter being described herein as the cross appeal or cross appeals.

VII.

Any part of said record so to be printed on the main appeal or upon the cross-appeal may be considered by

the court, whether the same is printed as a part of the record on the main appeal or as part of the record on the cross appeal. All questions raised by any joint Assignment of Error filed in the main appeal by the cross-complainants and the interveners therein shall be considered with and have like effect as though made and filed separately by each of the cross-complainants and interveners joining therein. In the separate or cross-appeal of the cross-complainants and interveners from the several orders of dismissal and from the judgment and decree entered herein, any questions raised by any joint Assignment of Error now filed herein by said cross-complainants and interveners, or either of them, shall be considered with and have like effect as though made and filed separately by each of the parties joining therein.

VIII.

In addition to the printed record and Statement of the Evidence with such exhibits or parts of exhibits as might be included therein, the original report, consisting of ten typewritten volumes of the evidence taken in said cause by the Special Examiner herein, together with the original exhibits referred to therein, including those described in the printed record containing the Statement of the Evidence, shall be certified to the appellate courts to be used in the trial of said cause in said courts in the event of an allegation by either party of an omission or error, subject to such objections as to the competency, relevancy or materiality of any part of said testimony and said exhibits, as may have been taken

and duly reserved in the record, by the parties or either of them, and such reports and exhibits may be used by the parties for reference for the purpose of correcting any errors or omissions, as may appear to the Court, and for such direct use in the appellate courts as may be contemplated by the Equity Rules of the Supreme Court of the United States, and as provided by the Act of February 18, 1911, United States Compiled Statutes Supplement 1911, page 275, and as contemplated by Rule 14, Subdivision 4, of the United States Circuit Court of Appeals. In either the Circuit Court of Appeals or in the Supreme Court of the United States, the appellants will, upon notice or request from the respondent, cause to be printed and included in the printed record any exhibits or parts of exhibits, or any part of the oral testimony, which may have been omitted from the printed record as prepared by the appellants, and the appellants may, after notice to complainant, print in the appellate courts, or either of them, any part of said original testimony which may have been omitted from the printed record, or any part of either of said original exhibits so omitted, and when so printed the same shall be considered and deemed to be a part of the printed record in said cause. Upon the final determination of this cause upon appeal in the Circuit Court of Appeals, or in the Supreme Court of the United States, if the case shall reach that court, the original exhibits and testimony so to be certified up, shall be returned to the Clerk of the District Court of the United States for the District of Oregon as a part of theoriginal files in said cause.

IX.

It is further stipulated that an order of this court may be made in accordance with this stipulation.

The object of this stipulation is to save the parties costs and expenses and to permit and authorize the hearing, trial, and determination of said appeals on one record and at the same time.

Dated March 4th, 1914.

JAS. C. McREYNOLDS,

Attorney General of the United States.

E. J. JUSTICE,

B. D. TOWNSEND,

F. C. RABB,

Special Assistant to the Attorney General,

Attorneys for Complainant.

WM. D. FENTON,

P. F. DUNNE,

WM. F. HERRIN,

Attorneys for Defendants Oregon & California Railroad Company, Stephen T. Gage, Company, Southern Pacific individuallly and as trustee.

DOLPH, MALLORY,

SIMON & GEARIN,

JOHN M. GEARIN,

Attorneys for Union Trust Company, individually and as trustee.

A. W. LAFFERTY,

Attorney for Defendants-Cross-Complainants John L. Snyder et al., and for all defendants-cross-complainants herein.

JNO. MILLS DAY,

LEWIS C. GARRIGUS,

Of Attorneys for B. W. Nunally et al., Interveners, and all other interveners herein.

(Endorsed) Filed March 14, 1914, A. M. Cannon, Clerk U. S. District Court.

And thereafter, on March 14, 1914, there was duly filed in said cause an order upon the stipulation herein last before set out, in words and figures as follows, to-wit:

[TITLE]

Now on this day, this cause came on for hearing upon stipulation of parties, as to printing of record on appeal and certifying up of original testimony and exhibits, and it appearing to the Court that the parties have made and filed a written stipulation, among other things, to that effect,

IT IS, THEREFORE, ORDERED: that the record on appeal be printed as provided by said stipulation, and that in addition to the printed record and Statement of the Evidence, with such exhibits or parts of exhibits as might be included therein,—the original report consisting of ten teypwritten volumes of the evidence taken in said cause by the said Examiner herein, together with the original exhibits referred to therein, including those described in the printed record containing the Statement of the Evidence, be certified to the Appellate Courts to be used in the trial of said cause in said Courts in the event of an allegation of either party of an omission or error, and for such other purposes as provided by said stipulation, subject to such objections as to the competency, relevancy or materiality of any part of said testimony and said exhibits as may have been taken and duly observed in the record by the parties, or either of them, and that such report

and exhibits may be used by the parties for reference for the purpose of correcting any errors or omissions as may appear to the Court, and for such direct use in the Appellate Courts as may be contemplated by the Equity rules of the Supreme Court of the United States, and as provided by the act of February 13, 1911, United States Compiled Statutes, Supplements 1911, page 275, and as contemplated by Rule 14, Subdivision 4, of the United States Circuit Court of Appeals.

(Sd) CHAS. E. WOLVERTON,
Judge.

Dated, March 14th, 1914.

(Endorsed) Filed March 14, 1914, A. M. Cannon, Clerk U. S. District Court.

And afterwards, to wit, on Wednesday, the 25th day of March, 1914, the same being the 21st Judicial day of the regular March term of said Court; present: the Honorable Chas. E. Wolverton, United States District Judge, presiding, the following proceedings were had in said cause, to-wit:

No. 3340

ORDER ENLARGING TIME TO FILE TRANSCRIPT.

IN THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE NINTH CIRCUIT

OREGON AND CALIFORNIA RAILROAD COMPANY, SOUTHERN PACIFIC COMPANY, STEPHEN T. GAGE, individually and as trustee, and UNION TRUST COMPANY, individually and as trustee,

Defendants,

JOHN L. SNYDER and others,

Defendants-Cross-Complainants,

WILLIAM L. SLAUGHTER and others,

Interveners,

APPELLANTS,

vs.

UNITED STATES OF AMERICA,

APPELLEE.

NOW at this time, March 25th, 1914, upon motion

of counsel for Oregon and California Railroad Company, Southern Pacific Company, Stephen T. Gage, individually and as trustee, and Union Trust Company, individually and as trustee, defendants above named, and of counsel for the said defendants-cross-complainants and interveners above named, and all other cross complainants and interveners who are parties to the appeal taken herein on the 29th day of August, 1913, APPELLANTS in the above entitled cause, for an order of this Court enlarging and extending the time for the said Appellants and each of them, to file the record on appeal in the above entitled cause with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, and to docket said cause therein; and it appearing to the undersigned Judge of the United States District Court for the District of Oregon, who signed the citation on said appeal, that good cause is shown and exists for said order,—

IT IS ORDERED, that the time for the said Appellants, to-wit, the said defendants, the said defendants-cross-complainants and said interveners, and for all parties who have heretofore taken an appeal in the above entitled cause, and that the time for each of said Appellants to file the record on appeal in said cause with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit and to docket the case with said Clerk be, and the same is, hereby enlarged and extended up to and including the fourth day of April, A. D. 1914.

CHAS. E. WOLVERTON,
United States District Judge.

Attest: A. M. Cannon, Clerk.

(SEAL)

DISTRICT OF OREGON)
) ss.
COUNTY OF MULTNOMAH)

Due service of the within order and notice of application therefor is hereby accepted in said County, Oregon, this 25th day of March, 1914, by receiving a copy thereof, duly certified to as such by Wm. D. Fenton of Attorneys for Defendants-Appellants.

FRED C. RABB,
Attorney for Plaintiff.

(Endorsed) Filed March 28, 1914,
Frank D. Monckton, Clerk.

IN THE DISTRICT COURT OF THE UNITED STATES, FOR THE DISTRICT OF OREGON.

UNITED STATES OF AMERICA,
Complainant and Appellee,

vs.

OREGON & CALIFORNIA RAILROAD COMPANY, SOUTHERN PACIFIC COMPANY, STEPHEN T. GAGE, individually and as trustee, and UNION TRUST COMPANY, individually and as trustee,
Defendants.

JOHN L. SNYDER and others,
Defendants-Cross-Complainants,

WILLIAM F. SLAUGHTER and others,
Interveners,
Appellees.

CERTIFICATE OF THE CLERK UNITED STATES DISTRICT COURT TO THE TRANSCRIPT OF RECORD, ETC.

United States of America,)
)ss.
District of Oregon;)

I, A. M. Cannon, Clerk of the United States District Court for the District of Oregon, do hereby certify that the foregoing printed pages numbering from 1 to 8668, inclusive, are a full, true, correct and complete copy of so much of the record, papers and other proceedings in the above entitled suit as are, according to the praecipe of appellants and the stipulation of the parties herein, required and are necessary for the hearing of said cause on Appeal in the United States Circuit Court of Appeals for the Ninth Circuit, as the originals thereof appear on file in said Court at the City of Portland in said District; that the same, together with the original report, consisting of ten typewritten volumes of the evidence taken in said cause by the Special Examiner therein, together with the original exhibits referred to therein, including those described in the foregoing printed record and which are transmitted herewith pursuant to stipulation of the parties and order of the District Court of the United States for the District of Oregon, constitute the Transcript of Record on appeal herein from the decree of the United States District Court for the District of Oregon to the United States Circuit Court of Appeals for the Ninth Circuit.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court at

Portland, Oregon, this ..... day of ....., 1914.

....., Clerk of the United States District Court for the District of Oregon.

DISTRICT OF OREGON)
) ss.
COUNTY OF MULTNOMAH)

Due service of the Statement of the Evidence, prepared by appellants, Oregon and California Railroad Company, Southern Pacific Company, Stephen T. Gage, individually and as trustee, and Union Trust Company, individually and as trustee, defendants, to be tendered by said appellants to the United States District Court for the District of Oregon, under Rule 75, Rules of Practice for the Courts in Equity of the United States, for the approval of said Court, is hereby accepted this 4th day of March, 1914, by receiving a copy thereof, with notice that on the 14th day of March, 1914, said appellants will apply for an order before said court approving said Statement of the Evidence.

J. C. McREYNOLDS,
Attorney General.

E. J. JUSTICE,
B. D. TOWNSEND
and F. C. RABB,
Special Assistants to the Attorney General.

A. W. LAFFERTY,

LEWIS C. GARRIGUS,

Of Attorneys for Defendants-Cross-Complainants John L. Snyder et al., and for all defendants-cross-complainants herein.

LEWIS C. GARRIGUS,

Of Attorneys for B. W. Nunally et al., interveners, and all other interveners herein.

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